



Distr.: Limited
19 October 2018

Original: English

Seventy-third session

Agenda item 85

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Draft resolution

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly.

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

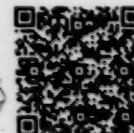
Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,¹

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Concerned about the special economic problems confronting certain States arising from the carrying-out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of

¹ *Official Records of the General Assembly, Sixty-third Session, Supplement No. 47 (A/63/47).*



Members of the United Nations under Article 49 of the Charter to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Mindful of the adoption of the revised working papers on the working methods of the Special Committee,²

Taking note of the report of the Secretary-General entitled "*Repertory of Practice of United Nations Organs and Repertoire of the Practice of the Security Council*",³

Recalling paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,⁴

Mindful of the decision of the Special Committee in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that might be taken at the high-level plenary meeting of the sixtieth session of the General Assembly in September 2005 that concerned the Charter and any amendments thereto,⁵

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 64/115 of 16 December 2009 and the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed thereto,

Having considered the report of the Special Committee on the work of its session held in 2018,⁶

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;⁶

2. *Decides* that the Special Committee shall hold its next session from 19 to 27 February 2019;

3. *Requests* the Special Committee, at its session in 2019, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already

² Ibid., *Sixty-first Session, Supplement No. 33 (A/61/33)*, para. 72.

³ A/73/190.

⁴ Resolution 60/1.

⁵ *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33 (A/60/33)*, para. 77.

⁶ Ibid., *Seventy-third Session, Supplement No. 33 (A/73/33)*.

submitted or which may be submitted to the Special Committee at its session in 2019, including strengthening the relationship and cooperation between the United Nations and regional organizations or arrangements in the peaceful settlement of disputes;

(b) To keep on its agenda the question of the peaceful settlement of disputes between States;

(c) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the high-level plenary meeting of the sixtieth session of the Assembly in September 2005 that concern the Charter and any amendments thereto;

(d) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency and utilization of resources with a view to identifying widely acceptable measures for future implementation;

4. *Requests* the Secretary-General, in accordance with paragraph 3 of the annex to resolution 71/146, to brief the Special Committee at its next session on the document entitled "Introduction and implementation of sanctions imposed by the United Nations" contained in the annex to General Assembly resolution 64/115;

5. *Recalls* its decision, in its resolution 72/118 of 7 December 2017, to undertake an annual thematic debate in the Special Committee, under the agenda item on the peaceful settlement of disputes, to discuss the means for the settlement of disputes, in accordance with Chapter VI of the Charter, including in particular those contained in Article 33 thereof, and consistent with the Manila Declaration on the Peaceful Settlement of International Disputes,⁷ and in that regard:

(a) Invites Member States to focus their comments during the thematic debate, to be held at the next session of the Special Committee, at the seventy-third session of the General Assembly, on the subtopic "Exchange of information on State practices regarding the use of mediation", while ensuring that the other means of dispute settlement will be discussed at the subsequent sessions of the Special Committee;

(b) Also invites Member States to comment on the subtopics of the annual debate in their general statements with a view to having the texts of those statements posted on the website of the Special Committee;⁸

(c) Calls upon the Special Committee to include a summary of the subtopics of the annual debate in its annual report for further consideration;

6. *Also recalls* its endorsement of the decisions and recommendations adopted by the Special Committee at its 2016 session, in particular as set forth in paragraphs 2 and 3 of the annex to resolution 71/146;

7. *Invites* the Special Committee, at its session in 2019, to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

8. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

9. *Requests* the Special Committee to submit a report on its work to the General Assembly at its seventy-fourth session;

10. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States

⁷ Resolution 37/10, annex.

⁸ <http://legal.un.org/committees/charter>.

and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, notes that, consistent with Article 96 of the Charter, the Court's advisory jurisdiction may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

11. *Commends* the Secretary-General for the progress made in the preparation of studies for the *Repertory of Practice of United Nations Organs*, including the use of the internship programme of the United Nations and cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

12. *Encourages* Member States to identify academic institutions that have the capacity to contribute to the preparation of studies for the *Repertory* and to provide contact details of such institutions;

13. *Notes with appreciation* the contributions made by Member States to the trust fund for the elimination of the backlog in the *Repertory*, as well as to the trust fund for the updating of the *Repertoire*;

14. *Reiterates its call for* voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; voluntary contributions to the trust fund for the updating of the *Repertoire*; and the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

15. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions, and encourages the continued updating of the website for the *Repertory*;⁹

16. *Notes with concern* that the backlog in the preparation of volume III of the *Repertory*, although slightly reduced, has not been eliminated, and calls upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog;

17. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire* calls upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952;¹⁰

18. *Requests* the Secretary-General to submit to the General Assembly at its seventy-fourth session a report on both the *Repertory* and the *Repertoire*;

19. *Also requests* the Secretary-General to submit to the General Assembly at its seventy-fourth session a report on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions;

20. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

⁹ <http://legal.un.org/repertory>.

¹⁰ A/2170.

**General Assembly**

Distr.: Limited
26 October 2018

Original: English

Seventy-third session**Sixth Committee**

Agenda item 80

**Report of the United Nations Commission on International
Trade Law on the work of its fifty-first session**

Argentina, Armenia, Austria, Belarus, Belgium, Bulgaria, Canada, Central African Republic, Croatia, Cyprus, Czechia, El Salvador, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Malaysia, Mauritius, Namibia, Poland, Portugal, Republic of Moldova, Romania, Singapore, Slovakia, Sweden, Thailand and Ukraine: draft resolution

**Report of the United Nations Commission on International Trade
Law on the work of its fifty-first session**

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission,¹

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of

¹ Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17).



promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law;¹

2. *Commends* the Commission for the finalization of the draft convention on international settlement agreements resulting from mediation;²

3. *Also commends* the Commission for the finalization and adoption of the Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation,³ the Legislative Guide on Key Principles of a Business Registry⁴ and the Model Law on Recognition and Enforcement of Insolvency-Related Judgments and its Guide to Enactment;⁵

4. *Notes with appreciation* the event held to mark the sixtieth anniversary of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention of 1958),⁶ at which it was acknowledged that the Convention, with its almost universal acceptance, brings legal certainty to business operations worldwide, thereby contributing to decreasing the level of risk and transactional costs associated with international trade, furthering the Sustainable Development Goals⁷ and, by establishing a fundamental legal framework for the use of arbitration and its effectiveness, strengthens respect for binding commitments, inspires confidence in the rule of law and ensures fair treatment in the resolution of disputes arising over contractual rights and obligations;⁸

5. *Notes with satisfaction* the contributions from the Fund for International Development of the Organization of the Petroleum Exporting Countries and from the European Commission, which allow the operation of the repository of published information under the Rules on Transparency in Treaty-based Investor-State Arbitration⁹ and that the Commission reiterated its strong and unanimous opinion that the secretariat of the Commission should continue to operate the transparency repository, which constitutes a central feature both of the Rules on Transparency and of the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention on Transparency);¹⁰

6. *Requests* the Secretary-General to continue to operate, through the secretariat of the Commission, the repository of published information in accordance with article 8 of the Rules on Transparency, as a pilot project until the end of 2020,

² Ibid., chap. III, sect. B, and annex I.

³ Ibid., chap. III, sect. C, and annex II.

⁴ Ibid., chap. IV, sects. B and C.

⁵ Ibid., chap. V, sect. A, and annex III.

⁶ United Nations, *Treaty Series*, vol. 330, No. 4739.

⁷ See resolution 70/1.

⁸ See *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, chap. X.

⁹ Ibid., *Sixty-eighth Session, Supplement No. 17 (A/68/17)*, annex I.

¹⁰ Resolution 69/116, annex.

to be funded entirely by voluntary contributions, and to keep the General Assembly informed of developments regarding the funding and budgetary situation of the transparency repository based on its pilot operation;

7. *Takes note with interest* of the decisions taken by the Commission as regards its future work and the progress made by the Commission in its work in the areas of micro, small and medium-sized enterprises, dispute settlement, investor-State dispute settlement reform, electronic commerce, insolvency law and security interests and privately financed infrastructure projects,¹¹ as well as the decisions to take up work on expedited arbitration and, as its next priority, the judicial sale of ships, to conduct exploratory and preparatory work on warehouse receipts, to compile information on legal issues related to the digital economy aimed at enabling the commercial use of new technologies and methods and assisting developing economies in bridging the digital gap, and to undertake exploratory work on contractual networks and the civil law aspects of asset tracing and recovery,¹² and encourages the Commission to continue to move forward efficiently to achieve tangible work outcomes in those areas;

8. *Welcomes* the decision by the Commission to give Working Group IV a more specific mandate to conduct work on legal issues in the area of identity management and trust services with a view to facilitating cross-border recognition of identity management and trust services on the basis of the principles and issues identified by the Working Group at its fifty-sixth session,¹³ and takes note of the decision of the Commission to request the Secretariat to prepare, within existing resources, a pilot online tool containing the draft notes on the main issues of cloud computing contracts, for consideration at its next session, in 2019;¹⁴

9. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

10. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical cooperation and assistance in the field of international trade law reform and development, and in this connection:

(a) *Welcomes* the initiatives of the Commission towards expanding, through its secretariat, its technical cooperation and assistance programme, in that respect encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work, and notes in that regard the round table on technical assistance held during the fifty-first session of the Commission, which brought together governmental and intergovernmental organizations active in international development assistance to explore synergies and discuss ways to further cooperate with the secretariat of the Commission in implementing sound reforms of international trade law;

¹¹ See *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17* (A/73/17), chaps. IV–IX.

¹² *Ibid.*, chap. XVII, sects. A and B.

¹³ *Ibid.*, chap. VIII, para. 159.

¹⁴ *Ibid.*, para. 155.

(b) Expresses its appreciation to the Commission for carrying out technical cooperation and assistance activities and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical cooperation and assistance activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law trust fund for symposia and, where appropriate, for the financing of special projects and otherwise to assist the secretariat of the Commission in carrying out technical cooperation and assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical cooperation and assistance programme of the Commission and to cooperate with the Commission and coordinate their activities with those of the Commission in the light of the relevance and importance of the work and programmes of the Commission for the promotion of the rule of law at the national and international levels and for the implementation of the international development agenda, including the achievement of the 2030 Agenda for Sustainable Development;¹⁵

(e) Recalls its resolutions stressing the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, and welcomes the efforts of the Secretary-General to ensure greater coordination and coherence among United Nations entities and with donors and recipients;

11. *Recalls* the importance of adherence to the rules of procedure and methods of work of the Commission, including transparent and inclusive deliberations, taking into account the summary of conclusions as reproduced in annex III to the report on the work of its forty-third session,¹⁶ requests the Secretariat to issue, prior to meetings of the Commission and of its working groups, a reminder of those rules of procedure and methods of work with a view to ensuring the high quality of the work of the Commission and encouraging the assessment of its instruments, recalls in this regard its previous resolutions related to this matter, and notes that the Commission, during its fifty-first session, welcomed a joint comprehensive proposal submitted by Member States on its methods of work, including to use information-only documents on matters not requiring in-depth discussions, to apply a flexible approach to the allocation of meeting days with the goal of finalizing instruments and subsequently making decisions on future work in consecutive sessions of the Commission, to conduct a more efficient discussion of the topic of the role of the Commission in the promotion of the rule of law and to explore the possibility of reducing the duration of Commission sessions to two weeks, when possible and subject to the need for finalization of ongoing projects by the Commission, all aimed at enhancing the efficiency of the Commission's work as well as reducing the burden on delegations, and to streamline and focus the Commission's agenda and preparation for the session,

¹⁵ Resolution 70/1.

¹⁶ See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17 (A/65/17)*.

and notes in that respect that the Secretariat was requested to plan and prepare for the fifty-second session of the Commission, in 2019, on the basis of that proposal;¹⁷

12. *Welcomes* the activities of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific, in the Republic of Korea, towards providing capacity-building and technical assistance services to States in the Asia-Pacific region, including to international and regional organizations, expresses its appreciation to the Republic of Korea and China, whose contributions enabled continuing operation of the Regional Centre, notes that the continuation of the regional presence relies entirely on extrabudgetary resources, including but not limited to voluntary contributions from States, welcomes expressions of interest from other States in hosting regional centres of the Commission, and requests the Secretary-General to keep the General Assembly informed of developments regarding the establishment of regional centres, in particular their funding and budgetary situation;

13. *Notes* that, further to the offer of the Government of Cameroon in 2017, approved by the Commission, to establish, subject to the relevant rules and regulations of the United Nations and the internal approval process of the Office of Legal Affairs, a regional centre for Africa in Cameroon,¹⁸ the Government of Cameroon is continuing to examine the financial implications and the feasibility of establishing that regional centre, and encourages the secretariat of the Commission to continue its consultations and consider carefully the level of human resources that it would need for the efficient management of any new regional centre and for ensuring adequate supervision by, and coordination with, Vienna-based secretariat staff,¹⁹ and requests the Commission, in its annual report, to keep the General Assembly informed of developments regarding the project, in particular its funding and budgetary situation;

14. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, in order to enable renewal of the provision of that assistance and to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in those countries to put in place a regulatory and enabling environment for business, trade and investment;

15. *Decides*, in order to ensure full participation of all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the seventy-third session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General, and notes the contributions from the European Union and the Swiss Agency for Development and Cooperation to the trust fund, which would facilitate the participation of representatives of developing States in the deliberations of Working Group III;

16. *Endorses* the conviction of the Commission that the implementation and effective use of modern private law standards in international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that the promotion of the rule of law in commercial relations

¹⁷ Ibid., *Seventy-third Session, Supplement No. 17 (A/73/17)*, chap. XVIII, sect. A.

¹⁸ Ibid., *Seventy-second Session, Supplement No. 17 (A/72/17)*, para. 293.

¹⁹ Ibid., *Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 200.

should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General;

17. *Notes* the role of the Commission in promoting the rule of law, respective activity in the Commission at its fifty-first session²⁰ and the comments transmitted by the Commission, pursuant to paragraph 25 of General Assembly resolution 72/119 of 7 December 2017, highlighting the role in the promotion of the rule of law of the texts adopted or approved by the Commission and of its ongoing work, in particular through wide dissemination of international commercial law, including across the United Nations system;²¹

18. *Notes with satisfaction* that, in paragraph 8 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted by consensus as resolution 67/1 of 24 September 2012, Member States recognized the importance of fair, stable and predictable legal frameworks for generating inclusive, sustainable and equitable development, economic growth and employment, generating investment and facilitating entrepreneurship and, in this regard, commended the work of the Commission in modernizing and harmonizing international trade law and that, in paragraph 7 of the declaration, Member States expressed their conviction that the rule of law and development were strongly interrelated and mutually reinforcing;

19. *Also notes with satisfaction* that, in paragraph 89 of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, adopted by the General Assembly by consensus as resolution 69/313 of 27 July 2015, States endorsed the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field;

20. *Reiterates its request* to the Secretary-General, in conformity with resolutions of the General Assembly on documentation-related matters,²² which, in particular, emphasize that any invitation to limit, where appropriate, the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and functions of the Commission in the progressive development and codification of international trade law when implementing page limits with respect to the documentation of the Commission;²³

21. *Requests* the Secretary-General to continue the publication of Commission standards and the provision of summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts, and takes note of the decision of the Commission to continue the trial use of digital recordings, in parallel with summary records where applicable, with a view to assessing the experience of using digital recordings and, on the basis of that assessment, taking a

²⁰ Ibid., pt. as. 230 and 231.

²¹ Ibid., ch. XV.

²² Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

²³ See resolutions 59/39, para. 9, and 65/21, para. 18; see also *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17 (A/59/17)*, paras. 124–128.

decision at a future session regarding the possible replacement of summary records by digital recordings;²⁴

22. *Recalls* paragraph 48 of its resolution 66/246 of 24 December 2011 regarding the rotation scheme of meetings between Vienna and New York;

23. *Stresses* the importance of promoting the use of texts emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to conventions, enacting model laws and encouraging the use of other relevant texts;

24. *Notes with appreciation* the work of the Secretariat on the system for the collection and dissemination of case law on Commission texts in the six official languages of the United Nations (the CLOUT system), notes the resource-intensive nature of the system, acknowledges the need for further resources to sustain and expand it, and in this regard welcomes efforts by the Secretariat towards building partnerships with interested institutions, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to assist the secretariat of the Commission in raising awareness as to the availability and usefulness of the CLOUT system in professional, academic and judiciary circles and in securing the funding required for the coordination and expansion of the system and the establishment, within the secretariat of the Commission, of a pillar focused on the promotion of ways and means of interpreting Commission texts in a uniform manner;

25. *Welcomes* the continuing work of the Secretariat on digests of case law related to Commission texts, including their wide dissemination, as well as the continuing increase in the number of abstracts available through the CLOUT system, in view of the role of the digests and the CLOUT system as important tools for the promotion of the uniform interpretation of international trade law, in particular by building local capacity of judges, arbitrators and other legal practitioners to interpret those standards in the light of their international character and the need to promote uniformity in their application and the observance of good faith in international trade, and notes the satisfaction of the Commission with the performance of the New York Convention website²⁵ and the successful coordination between that website and the CLOUT system;

26. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,²⁶ commends the fact that the website of the Commission is published simultaneously in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website, including by developing its latest updated version, and to enhance the visibility of its work by utilizing social media features in accordance with the applicable guidelines.²⁷

²⁴ See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17 (A/69/17)*, para. 276.

²⁵ www.newyorkconvention1958.org.

²⁶ Resolutions 52/214, sect. C, para. 3; 55/222, sect. III, para. 12; 56/64 B, sect. X; 57/130 B, sect. X; 58/101 B, sect. V, paras. 61–76; 59/126 B, sect. V, paras. 76–95; 60/109 B, sect. IV, paras. 66–80; and 61/121 B, sect. IV, paras. 65–77.

²⁷ See resolution 63/120, para. 20.

**General Assembly**

Distr.: Limited
26 October 2018
Original: English

Seventy-third session

Sixth Committee

Agenda item 80

**Report of the United Nations Commission on International
Trade Law on the work of its fifty-first session**

Draft resolution

**United Nations Convention on International Settlement
Agreements Resulting from Mediation**

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolution 57/18 of 19 November 2002, in which it noted the adoption by the Commission of the Model Law on International Commercial Conciliation¹ and expressed the conviction that the Model Law, together with the Conciliation Rules of the Commission² recommended in its resolution 35/52 of 4 December 1980, contributes significantly to the establishment of a harmonized legal framework for the fair and efficient settlement of disputes arising in international commercial relations,

Recognizing the value of mediation as a method of amicably settling disputes arising in the context of international commercial relations,

Convinced that the adoption of a convention on international settlement agreements resulting from mediation that is acceptable to States with different legal, social and economic systems would complement the existing legal framework on international mediation and contribute to the development of harmonious international economic relations,

Noting that the decision of the Commission to concurrently prepare a convention on international settlement agreements resulting from mediation and an amendment to the Model Law on International Commercial Conciliation was intended to

¹ Resolution 57/18, annex.

² *Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 17 (A/35/17)*, para. 106; see also *Yearbook of the United Nations Commission on International Trade Law*, vol. XI: 1980, Part Three, annex II.



accommodate the different levels of experience with mediation in different jurisdictions, and to provide States with consistent standards on cross-border enforcement of international settlement agreements resulting from mediation, without creating any expectation that interested States may adopt either instrument.³

Noting with satisfaction that the preparation of the draft convention was the subject of due deliberation and that the draft convention benefited from consultations with Governments as well as intergovernmental and non-governmental organizations,

Taking note of the decision of the Commission at its fifty-first session to submit the draft convention to the General Assembly for its consideration,⁴

Taking note with satisfaction of the draft convention approved by the Commission,⁵

Expressing its appreciation to the Government of Singapore for its offer to host a signing ceremony for the Convention in Singapore,

1. *Commends* the United Nations Commission on International Trade Law for preparing the draft convention on international settlement agreements resulting from mediation;

2. *Adopts* the United Nations Convention on International Settlement Agreements Resulting from Mediation, contained in the annex to the present resolution;

3. *Authorizes* a ceremony for the opening for signature of the Convention to be held in Singapore on 7 August 2019, and recommends that the Convention be known as the "Singapore Convention on Mediation";

4. *Calls upon* those Governments and regional economic integration organizations that wish to strengthen the legal framework on international dispute settlement to consider becoming a party to the Convention.

³ *Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17)*, paras. 238–239; see also A/CN.9/901, para. 52.

⁴ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17)*, para. 49.

⁵ *Ibid.*, annex I.

Annex

United Nations Convention on International Settlement Agreements Resulting from Mediation

Preamble

The Parties to this Convention,

Recognizing the value for international trade of mediation as a method for settling commercial disputes in which the parties in dispute request a third person or persons to assist them in their attempt to settle the dispute amicably,

Noting that mediation is increasingly used in international and domestic commercial practice as an alternative to litigation,

Considering that the use of mediation results in significant benefits, such as reducing the instances where a dispute leads to the termination of a commercial relationship, facilitating the administration of international transactions by commercial parties and producing savings in the administration of justice by States,

Convinced that the establishment of a framework for international settlement agreements resulting from mediation that is acceptable to States with different legal, social and economic systems would contribute to the development of harmonious international economic relations,

Have agreed as follows:

Article 1. Scope of application

1. This Convention applies to an agreement resulting from mediation and concluded in writing by parties to resolve a commercial dispute ("settlement agreement") which, at the time of its conclusion, is international in that:

(a) At least two parties to the settlement agreement have their places of business in different States; or

(b) The State in which the parties to the settlement agreement have their places of business is different from either:

(i) The State in which a substantial part of the obligations under the settlement agreement is performed; or

(ii) The State with which the subject matter of the settlement agreement is most closely connected.

2. This Convention does not apply to settlement agreements:

(a) Concluded to resolve a dispute arising from transactions engaged in by one of the parties (a consumer) for personal, family or household purposes;

(b) Relating to family, inheritance or employment law.

3. This Convention does not apply to:

(a) Settlement agreements:

(i) That have been approved by a court or concluded in the course of proceedings before a court; and

(ii) That are enforceable as a judgment in the State of that court;

(b) Settlement agreements that have been recorded and are enforceable as an arbitral award.

Article 2. Definitions

1. For the purposes of article 1, paragraph 1:
 - (a) If a party has more than one place of business, the relevant place of business is that which has the closest relationship to the dispute resolved by the settlement agreement, having regard to the circumstances known to, or contemplated by, the parties at the time of the conclusion of the settlement agreement;
 - (b) If a party does not have a place of business, reference is to be made to the party's habitual residence.
2. A settlement agreement is "in writing" if its content is recorded in any form. The requirement that a settlement agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference.
3. "Mediation" means a process, irrespective of the expression used or the basis upon which the process is carried out, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person or persons ("the mediator") lacking the authority to impose a solution upon the parties to the dispute.

Article 3. General principles

1. Each Party to the Convention shall enforce a settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention.
2. If a dispute arises concerning a matter that a party claims was already resolved by a settlement agreement, a Party to the Convention shall allow the party to invoke the settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention, in order to prove that the matter has already been resolved.

Article 4. Requirements for reliance on settlement agreements

1. A party relying on a settlement agreement under this Convention shall supply to the competent authority of the Party to the Convention where relief is sought:
 - (a) The settlement agreement signed by the parties;
 - (b) Evidence that the settlement agreement resulted from mediation, such as:
 - (i) The mediator's signature on the settlement agreement;
 - (ii) A document signed by the mediator indicating that the mediation was carried out;
 - (iii) An attestation by the institution that administered the mediation; or
 - (iv) In the absence of (i), (ii) or (iii), any other evidence acceptable to the competent authority.
2. The requirement that a settlement agreement shall be signed by the parties or, where applicable, the mediator is met in relation to an electronic communication if:
 - (a) A method is used to identify the parties or the mediator and to indicate the parties' or mediator's intention in respect of the information contained in the electronic communication; and
 - (b) The method used is either:

- (i) As reliable as appropriate for the purpose for which the electronic communication was generated or communicated, in the light of all the circumstances, including any relevant agreement; or
 - (ii) Proven in fact to have fulfilled the functions described in subparagraph (a) above, by itself or together with further evidence.
3. If the settlement agreement is not in an official language of the Party to the Convention where relief is sought, the competent authority may request a translation thereof into such language.
 4. The competent authority may require any necessary document in order to verify that the requirements of the Convention have been complied with.
 5. When considering the request for relief, the competent authority shall act expeditiously.

Article 5. Grounds for refusing to grant relief

1. The competent authority of the Party to the Convention where relief is sought under article 4 may refuse to grant relief at the request of the party against whom the relief is sought only if that party furnishes to the competent authority proof that:
 - (a) A party to the settlement agreement was under some incapacity;
 - (b) The settlement agreement sought to be relied upon:
 - (i) Is null and void, inoperative or incapable of being performed under the law to which the parties have validly subjected it or, failing any indication thereon, under the law deemed applicable by the competent authority of the Party to the Convention where relief is sought under article 4;
 - (ii) Is not binding, or is not final, according to its terms; or
 - (iii) Has been subsequently modified;
 - (c) The obligations in the settlement agreement:
 - (i) Have been performed; or
 - (ii) Are not clear or comprehensible;
 - (d) Granting relief would be contrary to the terms of the settlement agreement;
 - (e) There was a serious breach by the mediator of standards applicable to the mediator or the mediation without which breach that party would not have entered into the settlement agreement; or
 - (f) There was a failure by the mediator to disclose to the parties circumstances that raise justifiable doubts as to the mediator's impartiality or independence and such failure to disclose had a material impact or undue influence on a party without which failure that party would not have entered into the settlement agreement.
2. The competent authority of the Party to the Convention where relief is sought under article 4 may also refuse to grant relief if it finds that:
 - (a) Granting relief would be contrary to the public policy of that Party; or
 - (b) The subject matter of the dispute is not capable of settlement by mediation under the law of that Party.

Article 6. Parallel applications or claims

If an application or a claim relating to a settlement agreement has been made to a court, an arbitral tribunal or any other competent authority which may affect the

relief being sought under article 4, the competent authority of the Party to the Convention where such relief is sought may, if it considers it proper, adjourn the decision and may also, on the request of a party, order the other party to give suitable security.

Article 7. Other laws or treaties

This Convention shall not deprive any interested party of any right it may have to avail itself of a settlement agreement in the manner and to the extent allowed by the law or the treaties of the Party to the Convention where such settlement agreement is sought to be relied upon.

Article 8. Reservations

1. A Party to the Convention may declare that:
 - (a) It shall not apply this Convention to settlement agreements to which it is a party, or to which any governmental agencies or any person acting on behalf of a governmental agency is a party, to the extent specified in the declaration;
 - (b) It shall apply this Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Convention.
2. No reservations are permitted except those expressly authorized in this article.
3. Reservations may be made by a Party to the Convention at any time. Reservations made at the time of signature shall be subject to confirmation upon ratification, acceptance or approval. Such reservations shall take effect simultaneously with the entry into force of this Convention in respect of the Party to the Convention concerned. Reservations made at the time of ratification, acceptance or approval of this Convention or accession thereto, or at the time of making a declaration under article 13 shall take effect simultaneously with the entry into force of this Convention in respect of the Party to the Convention concerned. Reservations deposited after the entry into force of the Convention for that Party to the Convention shall take effect six months after the date of the deposit.
4. Reservations and their confirmations shall be deposited with the depositary.
5. Any Party to the Convention that makes a reservation under this Convention may withdraw it at any time. Such withdrawals are to be deposited with the depositary, and shall take effect six months after deposit.

Article 9. Effect on settlement agreements

The Convention and any reservation or withdrawal thereof shall apply only to settlement agreements concluded after the date when the Convention, reservation or withdrawal thereof enters into force for the Party to the Convention concerned.

Article 10. Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.

Article 11. Signature, ratification, acceptance, approval, accession

1. This Convention is open for signature by all States in Singapore, on 7 August 2019, and thereafter at United Nations Headquarters in New York.
2. This Convention is subject to ratification, acceptance or approval by the signatories.

3. This Convention is open for accession by all States that are not signatories as from the date it is open for signature.
4. Instruments of ratification, acceptance, approval or accession are to be deposited with the depositary.

Article 12. Participation by regional economic integration organizations

1. A regional economic integration organization that is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, ratify, accept, approve or accede to this Convention. The regional economic integration organization shall in that case have the rights and obligations of a Party to the Convention, to the extent that that organization has competence over matters governed by this Convention. Where the number of Parties to the Convention is relevant in this Convention, the regional economic integration organization shall not count as a Party to the Convention in addition to its member States that are Parties to the Convention.
2. The regional economic integration organization shall, at the time of signature, ratification, acceptance, approval or accession, make a declaration to the depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States. The regional economic integration organization shall promptly notify the depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.
3. Any reference to a "Party to the Convention", "Parties to the Convention", a "State" or "States" in this Convention applies equally to a regional economic integration organization where the context so requires.
4. This Convention shall not prevail over conflicting rules of a regional economic integration organization, whether such rules were adopted or entered into force before or after this Convention: (a) if, under article 4, relief is sought in a State that is member of such an organization and all the States relevant under article 1, paragraph 1, are members of such an organization; or (b) as concerns the recognition or enforcement of judgments between member States of such an organization.

Article 13. Non-unified legal systems

1. If a Party to the Convention has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.
2. These declarations are to be notified to the depositary and are to state expressly the territorial units to which the Convention extends.
3. If a Party to the Convention has two or more territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention:
 - (a) Any reference to the law or rule of procedure of a State shall be construed as referring, where appropriate, to the law or rule of procedure in force in the relevant territorial unit;
 - (b) Any reference to the place of business in a State shall be construed as referring, where appropriate, to the place of business in the relevant territorial unit;

(c) Any reference to the competent authority of the State shall be construed as referring, where appropriate, to the competent authority in the relevant territorial unit.

4. If a Party to the Convention makes no declaration under paragraph 1 of this article, the Convention is to extend to all territorial units of that State.

Article 14. Entry into force

1. This Convention shall enter into force six months after deposit of the third instrument of ratification, acceptance, approval or accession.

2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the third instrument of ratification, acceptance, approval or accession, this Convention shall enter into force in respect of that State six months after the date of the deposit of its instrument of ratification, acceptance, approval or accession. The Convention shall enter into force for a territorial unit to which this Convention has been extended in accordance with article 13 six months after the notification of the declaration referred to in that article.

Article 15. Amendment

1. Any Party to the Convention may propose an amendment to the present Convention by submitting it to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the Parties to the Convention with a request that they indicate whether they favour a conference of Parties to the Convention for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the Parties to the Convention favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. The conference of Parties to the Convention shall make every effort to achieve consensus on each amendment. If all efforts at consensus are exhausted and no consensus is reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the Parties to the Convention present and voting at the conference.

3. An adopted amendment shall be submitted by the depositary to all the Parties to the Convention for ratification, acceptance or approval.

4. An adopted amendment shall enter into force six months after the date of deposit of the third instrument of ratification, acceptance or approval. When an amendment enters into force, it shall be binding on those Parties to the Convention that have expressed consent to be bound by it.

5. When a Party to the Convention ratifies, accepts or approves an amendment following the deposit of the third instrument of ratification, acceptance or approval, the amendment shall enter into force in respect of that Party to the Convention six months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 16. Denunciations

1. A Party to the Convention may denounce this Convention by a formal notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a non-unified legal system to which this Convention applies.

2. The denunciation shall take effect 12 months after the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall take effect upon the expiration of such longer period after the notification is received by the depositary. The Convention shall continue to apply to settlement agreements concluded before the denunciation takes effect.

DONE in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

**General Assembly**

Distr.: Limited
26 October 2018
Original: English

Seventy-third session**Sixth Committee**

Agenda item 80

**Report of the United Nations Commission on International
Trade Law on the work of its fifty-first session****Draft resolution****Model Law on International Commercial Mediation and
International Settlement Agreements Resulting from Mediation of
the United Nations Commission on International Trade Law***The General Assembly,*

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolution 57/18 of 19 November 2002, in which it noted the adoption by the Commission of the Model Law on International Commercial Conciliation¹ and expressed the conviction that the Model Law, together with the Conciliation Rules of the Commission² recommended in its resolution 35/52 of 4 December 1980, contributes significantly to the establishment of a harmonized legal framework for the fair and efficient settlement of disputes arising in international commercial relations,

Recognizing the value of mediation as a method of amicably settling disputes arising in the context of international commercial relations,

Believing that the amendments to the Model Law on International Commercial Conciliation will significantly assist States in enhancing their legislation governing the use of modern mediation techniques and in formulating such legislation where none currently exists,

¹ Resolution 57/18, annex.

² *Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 17 (A/35/17)*, para. 106; see also *Yearbook of the United Nations Commission on International Trade Law*, vol. XI: 1980, part three, annex II.



Noting that the decision of the Commission to concurrently prepare a convention on international settlement agreements resulting from mediation and an amendment to the Model Law on International Commercial Conciliation was intended to accommodate the different levels of experience with mediation in different jurisdictions and to provide States with consistent standards on the cross-border enforcement of international settlement agreements resulting from mediation, without creating any expectation that interested States may adopt either instrument,³

Noting with satisfaction that the preparation of the amendments to the Model Law was the subject of due deliberation and that they benefited from consultations with Governments as well as with intergovernmental and non-governmental organizations,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for finalizing and adopting the Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation (amending the Model Law on International Commercial Conciliation);⁴

2. *Requests* the Secretary-General to transmit the text of the Model Law to Governments and other interested bodies;

3. *Recommends* that all States give favourable consideration to the Model Law when revising or adopting legislation relevant to mediation, bearing in mind the desirability of uniformity of the law of mediation procedures and the specific needs of international commercial mediation practice, and invites States that have used the Model Law to advise the Commission accordingly.

³ Official Records of the General Assembly, Seventy-second Session, Supplement No. 17 (A/72/17), paras. 235-239; see also A/CN.9/901, para. 52.

⁴ Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17), annex II.



General Assembly

Distr.: Limited
26 October 2018

Original: English

Seventy-third session

Sixth Committee

Agenda item 80

Report of the United Nations Commission on International Trade Law on the work of its fifty-first session

Draft resolution

Model Law on Recognition and Enforcement of Insolvency-Related Judgments of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recognizing that effective insolvency regimes are increasingly seen as a means of encouraging economic development and investment, as well as fostering entrepreneurial activity and preserving employment,

Convinced that the law of recognition and enforcement of judgments is becoming more and more important in a world in which it is increasingly easy for enterprises and individuals to have assets in more than one State and to move assets across borders,

Considering that international instruments on the recognition and enforcement of judgments in civil and commercial matters exclude insolvency-related judgments from their scope,

Concerned that inadequate coordination and cooperation in cases of cross-border insolvency, which lead to uncertainties associated with recognition and enforcement of insolvency-related judgments, can operate as an obstacle to the fair, efficient and effective administration of cross-border insolvencies, reducing the possibility of rescuing financially troubled but viable businesses, making it more likely that debtors' assets would be concealed or dissipated and hindering reorganizations or liquidations that would be the most advantageous for all interested persons, including the debtors, the debtors' employees and the creditors,



Convinced that fair and internationally standardized legislation on cross-border insolvency that respects national procedural and judicial systems, as expressed by the provisions of the Model Law on Recognition and Enforcement of Insolvency-Related Judgments,¹ that is acceptable to States with different legal, social and economic systems would contribute to the development of international trade and investment,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for finalizing and adopting the Model Law on Recognition and Enforcement of Insolvency-Related Judgments¹ and its guide to enactment;

2. *Requests* the Secretary-General to transmit the text of the Model Law, together with its guide to enactment, to Governments and other interested bodies;

3. *Recommends* that all States give favourable consideration to the Model Law when revising or adopting legislation relevant to insolvency, bearing in mind the need for internationally harmonized legislation governing and facilitating instances of cross-border insolvency, and invites States that have used the Model Law to advise the Commission accordingly;

4. *Also recommends* that all States continue to consider implementation of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law.²

¹ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 17 (A/73/17), annex III.*

² Resolution 52/158, annex.

**General Assembly**

Distr.: Limited
1 November 2018
Original: English

Seventy-third session**Sixth Committee****Agenda item 79****Criminal accountability of United Nations officials and experts on mission****Draft resolution****Criminal accountability of United Nations officials and experts on mission**

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation of the Special Committee on Peacekeeping Operations that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,¹

Recalling also that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,²

Recalling further its resolution 59/300 of 22 June 2005, in which it endorsed the recommendation of the Special Committee that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely, that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized, without due process,³

Underlining the importance of a zero-tolerance policy for misconduct and the commission of crimes by United Nations officials and experts on mission,

Recognizing the valuable contribution of United Nations officials and experts on mission towards the fulfilment of the purposes and principles of the Charter,

¹ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19 (A/59/19/Rev.1), part one, chap. III, sect. D, para. 56.*

² See A/59/710.

³ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19 (A/59/19/Rev.1), part two, chap. II, sect. N, para. 40 (a).*



Reaffirming the need to promote and ensure respect for the principles and rules of international law,

Reaffirming also that the present resolution is without prejudice to the privileges and immunities of United Nations officials and experts on mission and the United Nations under international law,

Reaffirming further the obligation of United Nations officials and experts on mission to respect the national laws of the host State, as well as the right of the host State to exercise, where applicable, its criminal jurisdiction, in accordance with the relevant rules of international law and agreements governing operations of United Nations missions,

Underlining the importance of appropriate training of United Nations officials and experts on mission to prevent any criminal conduct,

Deeply concerned by reports of criminal conduct, and conscious that such conduct, if not investigated and, as appropriate, prosecuted, would create the negative impression that United Nations officials and experts on mission operate with impunity,

Reaffirming the need to ensure that all United Nations officials and experts on mission function in a manner that preserves the image, credibility, impartiality and integrity of the United Nations,

Emphasizing that crimes committed by such persons are unacceptable and have a detrimental effect on the fulfilment of the mandate of the United Nations, in particular with respect to the relations between the United Nations and the local population in the host country,

Conscious of the critical importance of providing expeditious support and protecting the rights of victims of criminal conduct perpetrated by United Nations officials and experts on mission, as well as of ensuring adequate protection for witnesses, and recalling the adoption of its resolution 62/214 of 21 December 2007 on the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel, as well as of its resolution 71/297 of 30 June 2017 on special measures for protection from sexual exploitation and abuse,

Emphasizing that genuine accountability rests on the cooperation of the Member States,

Emphasizing also the need to enhance international cooperation to ensure the criminal accountability of United Nations officials and experts on mission,

Taking note of the report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people,⁴ and of the subsequent report of the Secretary-General entitled "The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations",⁵

Taking note also of the report of the Joint Inspection Unit on fraud prevention, detection and response in United Nations system organizations,⁶ the Anti-Fraud and Anti-Corruption Framework of the United Nations Secretariat of September 2016⁷

⁴ See A/70/95 S/2015/446.

⁵ A/70/357 S/2015/682.

⁶ A/71/731.

⁷ ST/IC/2016/25, annex.

and the report of the Secretary-General on his practice in disciplinary matters and cases of possible criminal behaviour for the period from 1 July to 31 December 2017,⁸

Recalling its resolution 61/29 of 4 December 2006, by which it established the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission,

Having considered at its previous sessions the report of the Group of Legal Experts established by the Secretary-General pursuant to its resolution 59/300⁹ and the reports of the Ad Hoc Committee,¹⁰ as well as the note by the Secretariat¹¹ and the reports of the Secretary-General¹² on criminal accountability of United Nations officials and experts on mission,

Recalling its resolutions 62/63 of 6 December 2007, 63/119 of 11 December 2008, 64/110 of 16 December 2009, 65/20 of 6 December 2010, 66/93 of 9 December 2011, 67/88 of 14 December 2012, 68/105 of 16 December 2013, 69/114 of 10 December 2014, 70/114 of 14 December 2015, 71/134 of 13 December 2016 and 72/112 of 7 December 2017,

Noting the oral report of the Chair of the working group of the Sixth Committee on its work during the seventy-third session,

Convinced of the continuing need for the United Nations and its Member States to urgently take strong and effective steps to ensure the criminal accountability of United Nations officials and experts on mission in the interest of justice,

Emphasizing that the development of harmonized United Nations standards of investigation of crimes allegedly committed by United Nations officials and experts on mission can be critical to strengthening the United Nations system of accountability,

1. *Takes note* of the reports of the Secretary-General,¹³ in particular annexes I and II to the report submitted pursuant to paragraphs 30 and 31 of its resolution 72/112,¹⁴ which provide additional information on the nature of the allegations and information received from States on all referrals since 1 July 2007 and notifications received from States with respect to investigations or prosecutions of crimes allegedly committed by United Nations officials or experts on mission since 1 July 2016;

2. *Also takes note* of the report of the Secretary-General on special measures for protection from sexual exploitation and sexual abuse,¹⁵ as well as the findings of the Office of Internal Oversight Services of the Secretariat in its evaluation report of 15 May 2015, including on the issue of underreporting;¹⁶

⁸ A/73/71.

⁹ A/60/980.

¹⁰ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 54 (A/62/54); and ibid., Sixty-third Session, Supplement No. 54 (A/63/54).*

¹¹ A/62/329.

¹² A/63/260 and A/63/260/Add.1, A/64/183 and A/64/183/Add.1, A/65/185, A/66/174 and A/66/174/Add.1, A/67/213, A/68/173, A/69/210, A/70/208, A/72/121, A/72/126, A/72/205, A/73/128, A/73/129 and A/73/155.

¹³ A/73/128, A/73/129 and A/73/155.

¹⁴ A/73/129.

¹⁵ A/72/751 and A/72/751/Corr.1.

¹⁶ "Evaluation of the enforcement and remedial assistance efforts for sexual exploitation and abuse by the United Nations and related personnel in peacekeeping operations", as reissued on 12 June 2015.

3. *Welcomes* the commitment of the Secretary-General to refer credible allegations of sexual exploitation and abuse to the Member State of the United Nations officials or experts on mission for appropriate action;

4. *Also welcomes* the work of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, and requests the Secretary-General to regularly update Member States on progress with respect to the implementation of the mandate of the Special Coordinator;

5. *Expresses its concern* with respect to all alleged crimes on the part of United Nations officials and experts on mission, including allegations of fraud, corruption and other financial crimes, and in that regard welcomes the reaffirmation by the Secretary-General that there will be no tolerance for any corruption at the United Nations;

6. *Urges* the Secretary-General to continue to ensure that his zero-tolerance policy for criminal activities, such as sexual exploitation and abuse, fraud and corruption, is made known to all United Nations officials and experts on mission at all levels, especially those in managerial positions, and is fully implemented in a coherent and coordinated manner throughout the United Nations, including funds and programmes, and calls upon all entities in the United Nations to inform and to cooperate fully with the Office of Legal Affairs of the Secretariat in all cases involving allegations that a crime may have been committed by a United Nations official or expert on mission;

7. *Requests* the Secretary-General to ensure greater quality and consistency in investigations by investigative entities of the Organization through the development of harmonized standards of investigation, including verification of allegations and information received;

8. *Expresses its concern* with respect to the low rate of response from States to referred allegations and to requests for information on their provisions addressing the establishment of jurisdiction over crimes, as urged in its resolution 72/112, and in particular expresses its deep concern with regard to the significant number of instances where States to which allegations have been referred have failed to advise the United Nations of any steps taken in response to such referrals, and also with regard to the failure to acknowledge such referrals;

9. *Strongly urges* States to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process;

10. *Strongly urges* all States to consider establishing, to the extent that they have not yet done so, jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State, and, further, urges States and appropriate international organizations to provide technical and other appropriate assistance in developing such legal measures to States requesting such support;

11. *Encourages* all States and the United Nations to cooperate with each other in the exchange of information and in facilitating the conduct of investigations and, as appropriate, the prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature, in accordance with their national law and applicable United Nations rules and regulations, fully

respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes;

12. *Encourages* all States:

(a) To afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at their disposal, in accordance with their national law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them;

(b) In accordance with their national law, to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations;

(c) In accordance with their national law, to provide effective protection for victims of, witnesses to and others who provide information in relation to crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission and to facilitate access of victims to victim assistance programmes, without prejudice to the rights of the alleged offender, including those relating to due process;

(d) In accordance with their national law, to explore ways and means of responding adequately to requests by host States for support and assistance in order to enhance their capacity to conduct effective investigations in respect of crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission;

13. *Requests* the Secretariat to continue to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and behaviour and be aware that certain conduct may amount to a crime for which they may be held accountable, and also requests that the Secretariat take all appropriate measures to continue to ensure that all such personnel, as well as United Nations officials, are properly vetted by the States contributing personnel and by the Organization for any prior misconduct while serving with the United Nations;

14. *Urges* the Secretary-General to make Member States contributing personnel to serve as experts on mission aware of the necessity of providing appropriate conduct-related training prior to deployment, and also urges the Secretary-General to continue to take such practical measures as are within his authority to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training for United Nations officials and experts on mission;

15. *Reiterates* its decision that, bearing in mind its resolutions 62/63 and 63/119, the consideration of the report of the Group of Legal Experts,⁹ in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, shall be continued during its seventy-fifth session in the framework of a working group of the Sixth Committee, and, for that purpose, invites further comments from Member States on that report, including on the question of future action;

16. *Takes note* of the briefings by the Secretariat during the seventieth, seventy-first, seventy-second and seventy-third sessions, and decides to organize another briefing at the seventy-fourth session with a view to furthering discussion on

measures that could be taken to help to ensure the accountability of United Nations officials and experts on mission and prevent future crimes;

17. *Recognizes* the efforts of Member States towards devising concrete proposals to ensure the accountability of United Nations officials and experts on mission, and encourages all Member States to redouble their efforts informally during the intersessional period, with the support of the Secretariat, in particular through the organization of informal briefings;

18. *Requests* the Secretary-General to bring credible allegations that reveal that a crime may have been committed by a United Nations official or expert on mission to the attention of the States against whose nationals such allegations are made and to request from those States updates, as set out in paragraph 20 below, on the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance that States may wish to receive from the Secretariat for the purposes of such investigations and prosecutions;

19. *Also requests* the Secretary-General to seek, from all States that have notified the United Nations with respect to investigations or prosecutions of crimes allegedly committed by United Nations officials or experts on mission, updates on the status of their investigations or prosecutions, provided that this would not prejudice national investigations or national proceedings;

20. *Urges* the States referred to in paragraphs 18 and 19 above to provide to the Secretary-General periodic updates on their handling of the allegations, in order to demonstrate that Member States are taking steps to ensure accountability for crimes committed by United Nations officials and experts on mission, in particular by informing the Secretary-General of whether any disciplinary or criminal proceedings have been brought and of the outcome of any such proceedings or the reasons for not initiating them, provided that this would not be contrary to national laws or prejudice national investigations or national proceedings, and requests the Secretary-General to continue and undertake the necessary follow-up with the States concerned, by all appropriate forms of communication, with a view to encouraging those States to respond;

21. *Encourages* all States to provide to the Secretary-General a point of contact in order to strengthen and enable efficient communication and cooperation between the United Nations and Member States, and requests the Secretary-General to maintain and update a list of points of contact;

22. *Requests* the United Nations, when its investigations into allegations suggest that crimes of a serious nature may have been committed by United Nations officials or experts on mission, to consider any appropriate measures that may facilitate the possible use of information and material for purposes of criminal proceedings initiated by States, bearing in mind due process considerations;

23. *Encourages* the United Nations, when allegations against United Nations officials or experts on mission are determined by a United Nations administrative investigation to be unfounded, to take appropriate measures, in the interests of the Organization, to restore the credibility and the reputation of such officials and experts on mission;

24. *Urges* the United Nations to continue cooperating with States exercising jurisdiction in order to provide them, within the framework of the relevant rules of international law and agreements governing activities of the United Nations, with information and material for purposes of criminal proceedings initiated by States;

25. *Recalls* the Secretary-General's bulletin on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or

investigations,¹⁷ underlines the importance of a culture in which individuals are encouraged and supported by the Organization to report alleged crimes, emphasizes that the United Nations, in accordance with the applicable rules of the Organization, should take no action that would retaliate against or intimidate United Nations officials and experts on mission who report allegations concerning crimes of a serious nature committed by United Nations officials and experts on mission, and stresses the need for appropriate safeguards against retaliation;

26. *Stresses* the critical importance of ensuring that victims of criminal conduct perpetrated by United Nations officials and experts on mission are made aware of available victim assistance and support, including from a gender perspective, and requests the Secretary-General to report to the Sixth Committee on available victim assistance and support during the briefing at its seventy-fourth session;

27. *Takes note with appreciation* of the information provided by Governments in response to its resolutions 62/63, 63/119, 64/110, 65/20, 66/93, 67/88, 68/105, 69/114, 70/114, 71/134 and 72/112, and urges Governments to continue taking the measures necessary for the implementation of those resolutions, including their provisions addressing the establishment of jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, as well as cooperation among States, and to provide specific details thereon, in particular with respect to paragraph 10 above, in the information provided to the Secretary-General;

28. *Recalls its request* in resolution 72/112 for Governments to provide specific details on the measures taken, as necessary, for the implementation of its resolutions 62/63, 63/119, 64/110, 65/20, 66/93, 67/88, 68/105, 69/114, 70/114 and 71/134, and notes that, in response to those resolutions, 132 submissions and 16 questionnaire responses were received from 61 Member States between 6 December 2007 and 13 July 2018;

29. *Requests* the Secretary-General to keep up to date the online compilation of the full submissions and questionnaire responses as well as the online summary table of national provisions, based on information received from Member States since 2007, regarding the establishment of jurisdiction over their nationals whenever they serve as United Nations officials or experts on mission, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature, and also requests the Secretary-General to prepare a report containing a general overview of national provisions, based on the information received, in view of the seventy-fifth session of the General Assembly, provided that sufficient information has been received from Member States;

30. *Takes note* of the report of the Secretary-General setting out all relevant existing policies and procedures of the United Nations system regarding the allegations referred to in paragraphs 18 and 19 above,¹⁸ and requests the Secretary-General to report on any updates to those policies and procedures and to develop recommendations to help to ensure that such policies and procedures relating to the reporting, investigation, referral and follow-up of credible allegations revealing that a crime may have been committed by a United Nations official or expert on mission are coherent, systematic and coordinated throughout the United Nations system;

31. *Requests* the Secretary-General to report to the General Assembly at its seventy-fourth session on the implementation of the present resolution, in particular with respect to paragraphs 10, 12, 13, 15, 18, 20 and 30 above, as well as any practical

¹⁷ ST/SGB/2017/2/Rev.1.

¹⁸ A/73/155.

problems in its implementation, on the basis of information received from Governments and the Secretariat;

32. *Also requests* the Secretary-General to continue to improve reporting methods and expand the scope of reporting by providing information on the allegations referred to in paragraphs 18 and 19 above, as well as information received pursuant to paragraph 20 since 1 July 2007, limited to the United Nations entity involved, the year of referral, the dates and methods of follow-up requests from the Secretary-General, information about the type of crime and a summary of allegations, the status of investigations, prosecutorial and disciplinary actions taken, including with respect to individuals concerned who have left the duty mission or the service of the United Nations, any requests for waivers of immunity, as applicable, and information on jurisdictional, evidentiary or other obstacles to prosecution, while protecting the privacy of the victims as well as respecting the privacy and rights of those subject to the allegations;

33. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Criminal accountability of United Nations officials and experts on mission".



General Assembly

Distr.: Limited
6 November 2018
Original: English

Seventy-third session

Sixth Committee

Agenda item 87

The scope and application of the principle of universal jurisdiction

Draft resolution

The scope and application of the principle of universal jurisdiction

The General Assembly,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations, to international law and to an international order based on the rule of law, which is essential for peaceful coexistence and cooperation among States,

Recalling its resolutions 64/117 of 16 December 2009, 65/33 of 6 December 2010, 66/103 of 9 December 2011, 67/98 of 14 December 2012, 68/117 of 16 December 2013, 69/124 of 10 December 2014, 70/119 of 14 December 2015, 71/149 of 13 December 2016 and 72/120 of 7 December 2017,

Taking into account the comments and observations of Governments and observers and the discussions held in the Sixth Committee at the sixty-fourth to seventy-third sessions of the General Assembly on the scope and application of universal jurisdiction,¹

Noting the constructive dialogue in the Sixth Committee, including in the context of its working group, recognizing the diversity of views expressed by States, including concerns expressed in relation to the abuse or misuse of the principle of universal jurisdiction, and acknowledging, in order to make progress, the need for continuing discussions on the scope and application of the principle of universal jurisdiction in the Sixth Committee,

¹ See A/C.6/64/SR.12, A/C.6/64/SR.13 and A/C.6/64/SR.25 and A/C.6/64/SR.1-28/Corrigendum; A/C.6/65/SR.10, A/C.6/65/SR.11, A/C.6/65/SR.12, A/C.6/65/SR.27 and A/C.6/65/SR.28; A/C.6/66/SR.12, A/C.6/66/SR.13, A/C.6/66/SR.17 and A/C.6/66/SR.29; A/C.6/67/SR.12, A/C.6/67/SR.13, A/C.6/67/SR.24 and A/C.6/67/SR.25; A/C.6/68/SR.12, A/C.6/68/SR.13, A/C.6/68/SR.14 and A/C.6/68/SR.23; A/C.6/69/SR.11, A/C.6/69/SR.12 and A/C.6/69/SR.28; A/C.6/70/SR.12, A/C.6/70/SR.13 and A/C.6/70/SR.27; A/C.6/71/SR.13, A/C.6/71/SR.14, A/C.6/71/SR.15 and A/C.6/71/SR.31; A/C.6/72/SR.13, A/C.6/72/SR.14 and A/C.6/72/SR.28; and A/C.6/73/SR.10, A/C.6/73/SR.11, A/C.6/73/SR.12 and A/C.6/73/SR.33.



Reiterating its commitment to fighting impunity, and noting the views expressed by States that the legitimacy and credibility of the use of universal jurisdiction are best ensured by its responsible and judicious application consistent with international law,

1. *Takes note with appreciation of the report of the Secretary-General prepared on the basis of comments and observations of Governments and relevant observers;*²

2. *Decides that the Sixth Committee shall continue its consideration of the scope and application of universal jurisdiction, without prejudice to the consideration of this topic and related issues in other forums of the United Nations, and for this purpose decides to establish, at its seventy-fourth session, a working group of the Sixth Committee to continue to undertake a thorough discussion of the scope and application of universal jurisdiction;*

3. *Invites Member States and relevant observers to the General Assembly, as appropriate, to submit, before 26 April 2019, information and observations on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties and on their national legal rules and judicial practice, and requests the Secretary-General to prepare and submit to the Assembly at its seventy-fourth session a report based on such information and observations;*

4. *Decides that the working group shall be open to all Member States and that relevant observers will be invited to participate in the work of the working group;*

5. *Also decides to include in the provisional agenda of its seventy-fourth session the item entitled "The scope and application of the principle of universal jurisdiction".*

² A/73/123 and A/73/123/Add.1; see also A/65/181, A/66/93 and A/66/93/Add.1, A/67/116, A/68/113, A/69/174, A/70/125, A/71/111 and A/72/112.



General Assembly

Distr.: Limited
6 November 2018
Original: English

Seventy-third session
Sixth Committee
Agenda item 111
Measures to eliminate international terrorism

Draft resolution

Measures to eliminate international terrorism

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming, in all its aspects, the United Nations Global Counter-Terrorism Strategy, adopted on 8 September 2006,¹ which enhances the overall framework for the efforts of the international community to effectively counter the scourge of terrorism in all its forms and manifestations, and recalling the first, second, third, fourth, fifth and sixth biennial reviews of the Strategy, on 4 and 5 September 2008, 8 September 2010, 28 and 29 June 2012, 12 and 13 June 2014, 30 June and 1 July 2016, and 26 and 27 June 2018, respectively, and the debates that were held on those occasions,²

Recalling its resolutions 62/272 of 5 September 2008, 64/297 of 8 September 2010, 66/282 of 29 June 2012, 68/276 of 13 June 2014, 70/291 of 1 July 2016 and 72/284 of 26 June 2018,

Recalling also its resolution 66/10 of 18 November 2011,

Recalling further the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,³

Recalling the United Nations Millennium Declaration,⁴

Recalling also the 2005 World Summit Outcome,⁵ and reaffirming, in particular, the section on terrorism,

¹ Resolution 60/288.

² See A/62/PV.117, A/62/PV.118, A/62/PV.119 and A/62/PV.120, A/64/PV.116 and A/64/PV.117, A/66/PV.118, A/66/PV.119 and A/66/PV.120, A/68/PV.94, A/68/PV.95, A/68/PV.96 and A/68/PV.97, A/70/PV.108, A/70/PV.109 and A/70/PV.110, and A/72/PV.101, A/72/PV.102 and A/72/PV.103.

³ Resolution 50/6.

⁴ Resolution 55/2.

⁵ Resolution 60/1.



Recalling further the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to Assembly resolution 51/210 of 17 December 1996,

Recalling all General Assembly resolutions on measures to eliminate international terrorism and Security Council resolutions on threats to international peace and security caused by terrorist acts,

Convinced of the importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having competence to do so,

Deeply disturbed by the persistence of terrorist acts, which have been carried out worldwide,

Reaffirming its strong condemnation of the heinous acts of terrorism that have caused enormous loss of human life, destruction and damage, including those which prompted the adoption of General Assembly resolution 56/1 of 12 September 2001, as well as Security Council resolutions 1368 (2001) of 12 September 2001, 1373 (2001) of 28 September 2001 and 1377 (2001) of 12 November 2001, and those that have occurred since,

Reaffirming also its strong condemnation of the atrocious and deliberate attacks that have occurred against United Nations offices in various parts of the world,

Affirming that States must ensure that any measure taken to combat terrorism complies with all their obligations under international law and must adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Stressing the need to strengthen further international cooperation among States and among international organizations and agencies, regional and subregional organizations and arrangements and the United Nations in order to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, in accordance with the principles of the Charter, international law and the relevant international conventions,

Noting the role of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in monitoring the implementation of that resolution, including the taking of the necessary financial, legal and technical measures by States and the ratification or acceptance of the relevant international conventions and protocols,

Mindful of the need to enhance the role of the United Nations and the relevant specialized agencies in combating international terrorism and of the proposals of the Secretary-General to enhance the role of the Organization in this respect,

Recalling its resolution 71/291 of 15 June 2017, by which it decided to establish the Office of Counter-Terrorism,

Noting the United Nations High-level Conference of Heads of Counter-Terrorism Agencies of Member States, held in New York on 28 and 29 June 2018, the participants of which included representatives of Member States, regional organizations, civil society organizations, and the United Nations Global Counter-Terrorism Coordination Compact entities, further noting the intention of the Secretary-General to convene another such conference, and encouraging the Secretary-General to consult Member States in this regard,

Mindful of the essential need to strengthen international, regional and subregional cooperation aimed at enhancing the national capacity of States to prevent and effectively suppress international terrorism in all its forms and manifestations,

Reiterating its call upon States to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter,

Emphasizing that tolerance and dialogue among civilizations and the enhancement of interfaith and intercultural understanding are among the most important elements in promoting cooperation and success in combating terrorism, and welcoming the various initiatives to this end,

Reaffirming that no terrorist act can be justified in any circumstances,

Recalling Security Council resolution 1624 (2005) of 14 September 2005, and bearing in mind that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Noting recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism,

Noting also regional and subregional efforts to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomsoever committed, including through the elaboration of and adherence to regional conventions,

Recalling its decision in resolutions 54/110 of 9 December 1999, 55/158 of 12 December 2000, 56/88 of 12 December 2001, 57/27 of 19 November 2002, 58/81 of 9 December 2003, 59/46 of 2 December 2004, 60/43 of 8 December 2005, 61/40 of 4 December 2006, 62/71 of 6 December 2007, 63/129 of 11 December 2008, 64/118 of 16 December 2009, 65/34 of 6 December 2010, 66/105 of 9 December 2011 and 67/99 of 14 December 2012 that the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 should address, and keep on its agenda, the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations,

Recalling also that, in the Final Document of the Seventeenth Conference of Heads of State or Government of Non-Aligned Countries, adopted on Margarita Island, Bolivarian Republic of Venezuela, on 18 September 2016, the Heads of State or Government reiterated the collective position of the Movement of Non-Aligned Countries on combating international terrorism and reaffirmed its previous initiative calling for an international summit conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, as well as other relevant initiatives,

Noting the importance of continuing to strive towards achieving a world free of terrorism,

Bearing in mind its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010, 66/171 of 19 December 2011, 68/178 of 18 December 2013, 70/148 of 17 December 2015 and 72/180 of 19 December 2017,

Having examined the report of the Secretary-General⁶ and the oral report of the Chair of the Working Group of the Sixth Committee on its work during the seventy-third session,⁷

1. *Strongly condemns* all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed;

2. *Calls upon* all Member States, the United Nations and other appropriate international, regional and subregional organizations to implement the United Nations Global Counter-Terrorism Strategy,¹ as well as the resolutions relating to the first, second, third, fourth, fifth and sixth biennial reviews of the Strategy,⁸ in all its aspects at the international, regional, subregional and national levels without delay, including by mobilizing resources and expertise;

3. *Recalls* the pivotal role of the General Assembly in following up the implementation and the updating of the United Nations Global Counter-Terrorism Strategy, looks forward to the seventh biennial review, in 2020, and in this regard recalls its invitation to the Secretary-General to contribute to the future deliberations of the Assembly, and requests the Secretary-General when doing so to provide information on relevant activities within the Secretariat to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

4. *Reiterates* that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them;

5. *Reiterates its call upon* all States to adopt further measures in accordance with the Charter of the United Nations and the relevant provisions of international law, including international standards of human rights, to prevent terrorism and to strengthen international cooperation in combating terrorism and, to that end, to consider, in particular, the implementation of the measures set out in paragraphs 3 (a) to (f) of General Assembly resolution 51/210;

6. *Also reiterates its call upon* all States, with the aim of enhancing the efficient implementation of relevant legal instruments, to intensify, as and where appropriate, the exchange of information on facts related to terrorism and, in so doing, to avoid the dissemination of inaccurate or unverified information;

7. *Reiterates its call upon* States to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities;

8. *Expresses concern* at the increase in incidents of kidnapping and hostage-taking with demands for ransom and/or political concessions by terrorist groups, and expresses the need to address this issue;

9. *Expresses grave concern* over the acute and growing threat posed by foreign terrorist fighters, namely, individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or providing or receiving terrorist training, including in connection with armed conflict, emphasizes the need for States to address this issue, including through the implementation of their international obligations, and underlines the importance of United Nations capacity-building and

⁶ A/73/125.

⁷ See A/C.6/73/SR.33.

⁸ Resolutions 62/272, 64/297, 66/282, 68/276, 70/291 and 72/284.

facilitation of capacity-building in accordance with existing mandates to assist States, including those in the most affected regions, upon their request;

10. *Emphasizes* the need for States to cooperate resolutely against international terrorism by taking speedy and effective measures to eliminate this scourge, and in this regard calls upon all States, in accordance with their obligations under applicable international law and the Charter, to deny safe haven and bring to justice or, where appropriate, extradite, on the basis of the principle of extradite or prosecute, the perpetrators of terrorist acts or any person who supports, facilitates or participates or attempts to participate in the financing, planning or preparation of terrorist acts;

11. *Urges* States to ensure that their nationals or other persons and entities within their territory that wilfully provide or collect funds for the benefit of persons or entities who commit, or attempt to commit, facilitate or participate in the commission of terrorist acts are punished by penalties consistent with the grave nature of such acts;

12. *Reminds* States of their obligations under relevant international conventions and protocols, and Security Council resolutions, including Council resolution 1373 (2001), to ensure that perpetrators of terrorist acts are brought to justice, and recalls the General Assembly resolutions on measures to eliminate international terrorism;

13. *Reaffirms* that international cooperation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter, international law and relevant international conventions;

14. *Recalls* the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism,⁹ the Amendment to the Convention on the Physical Protection of Nuclear Material,¹⁰ the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation¹¹ and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf,¹² and urges all States to consider, as a matter of priority, becoming parties to these instruments;

15. *Urges* all States that have not yet done so to consider, as a matter of priority and in accordance with Security Council resolution 1373 (2001) and Council resolution 1566 (2004) of 8 October 2004, becoming parties to the relevant conventions and protocols as referred to in paragraph 6 of General Assembly resolution 51/210, as well as the International Convention for the Suppression of Terrorist Bombings,¹³ the International Convention for the Suppression of the Financing of Terrorism,¹⁴ the International Convention for the Suppression of Acts of Nuclear Terrorism and the Amendment to the Convention on the Physical Protection of Nuclear Material, and calls upon all States to enact, as appropriate, the national legislation necessary to implement the provisions of those conventions and protocols, to ensure that the jurisdiction of their courts enables them to bring to trial the perpetrators of terrorist acts and to cooperate with and provide support and assistance

⁹ United Nations, *Treaty Series*, vol. 2445, No. 44004.

¹⁰ Adopted on 8 July 2005 by the Conference to Consider and Adopt Proposed Amendments to the Convention on the Physical Protection of Nuclear Material (International Atomic Energy Agency, document GOV/INF/2005/10 GC(49)/INF/6, attachment).

¹¹ Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (International Maritime Organization, document LEG/CONF.15/21).

¹² Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (International Maritime Organization, document LEG/CONF.15/22).

¹³ United Nations, *Treaty Series*, vol. 2149, No. 37517.

¹⁴ *Ibid.*, vol. 2178, No. 38349.

to other States and relevant international, regional and subregional organizations to that end;

16. *Urges* States to cooperate with the Secretary-General and with one another, as well as with interested intergovernmental organizations, with a view to ensuring, where appropriate within existing mandates, that technical and other expert advice is provided to those States requiring and requesting assistance in becoming parties to and implementing the conventions and protocols referred to in paragraph 15 above;

17. *Notes with appreciation and satisfaction* that, consistent with the call contained in paragraphs 14 and 15 of General Assembly resolution 72/123 of 7 December 2017, a number of States became parties to the relevant conventions and protocols referred to therein, thereby realizing the objective of wider acceptance and implementation of those conventions;

18. *Reaffirms* the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60, and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to Assembly resolution 51/210, and calls upon all States to implement them;

19. *Calls upon* all States to cooperate to prevent and suppress terrorist acts;

20. *Urges* all States and the Secretary-General, in their efforts to prevent international terrorism, to make the best use of the existing institutions of the United Nations;

21. *Notes* that the United Nations Counter-Terrorism Centre is performing its duties within the Office of Counter-Terrorism and that the Centre is supporting the implementation of the United Nations Global Counter-Terrorism Strategy, and encourages all Member States to collaborate with the Centre and to contribute to the implementation of its activities within the Office;

22. *Requests* the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna to continue its efforts to enhance, through its mandate, the capabilities of the United Nations in the prevention of terrorism, and recognizes, in the context of the United Nations Global Counter-Terrorism Strategy and Security Council resolution 1373 (2001), its role in assisting States in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism, including the most recent among them, and in strengthening international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;

23. *Invites* regional intergovernmental organizations to submit to the Secretary-General information on the measures they have adopted at the regional level to eliminate international terrorism, as well as on intergovernmental meetings held by those organizations;

24. *Decides* to recommend that the Sixth Committee, at the seventy-fourth session of the General Assembly, establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussions on the item included in its agenda by Assembly resolution 54/110 concerning the question of convening a high-level conference under the auspices of the United Nations;

25. *Recognizes* the valuable dialogue and efforts of Member States towards resolving any outstanding issues, and encourages all Member States to redouble their efforts during the intersessional period;

26. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Measures to eliminate international terrorism".



General Assembly

Distr. Limited
7 November 2018
Original: English

Seventy-third session

Sixth Committee

Agenda item 167

Report of the Committee on Relations with the Host Country

Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus: draft resolution

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,¹

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,² the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations³ and the responsibilities of the host country,

Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Headquarters Agreement,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 111 of its report;¹

2. *Considers* that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which cannot be subject to any restrictions arising from the bilateral relations of the host country, are in the interest of the United Nations and all Member States, takes seriously the recent concerns raised by permanent missions regarding the normal performance of their functions, requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the

¹ Official Records of the General Assembly, Seventy-third Session, Supplement No. 26 (A/73/26).

² Resolution 22 A (I).

³ See resolution 169 (II).



functioning of missions, and urges the host country to continue to take appropriate action, such as the training of police, security, customs and border control officers, with a view to maintaining respect for diplomatic privileges and immunities and, if violations occur, to ensure that such cases are properly investigated and remedied, in accordance with applicable law;

3. *Recalls* the privileges and immunities applicable to the premises of the permanent missions to the United Nations enjoyed under international law, in particular the instruments listed in paragraph 111 (a) of the report of the Committee on Relations with the Host Country, and the obligations of the host country to observe such privileges and immunities, takes note of the alleged ongoing violations thereof by the host country and of the concerns expressed thereon, urges the host country to remove without delay any restrictions applied to the premises of a Permanent Mission inconsistent with those privileges and immunities, and in that regard to ensure respect for such privileges and immunities, takes seriously the lack of resolution of these matters and the concerns expressed about such lack of resolution, remains seized of these matters, and anticipates that they shall be duly addressed in a spirit of cooperation and in accordance with international law;

4. *Also recalls* that, prior to the institution by the host country of any proceedings that require any person referred to in article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,³ including representatives of a Member State, to leave the host country, article IV, section 13 (b) (1) of the Headquarters Agreement, inter alia, requires the host country to consult with the Member State, the Secretary-General or other principal executive officer, as appropriate, and considers that, given the seriousness of any such measure being exercised by the host country, the consultation should be meaningful;

5. *Notes* the problems experienced by some permanent missions to the United Nations in connection with the implementation of the Parking Programme for Diplomatic Vehicles,⁴ and notes that the Committee shall remain seized of the matter, with a view to continuing to maintain the proper implementation of the Parking Programme in a manner that is fair, non-discriminatory, effective and therefore consistent with international law;

6. *Requests again* the host country to consider removing the remaining travel restrictions imposed by it on staff of certain missions and staff members of the Secretariat of certain nationalities, and in this regard takes seriously recent concerns and notes the long-standing positions of affected States, of the Secretary-General and of the host country;

7. *Recalls* article IV of the Headquarters Agreement, and notes the concerns expressed by some delegations concerning the denial and delay of entry visas to representatives of Member States;

8. *Notes* that the Committee anticipates that the host country will continue to enhance its efforts to ensure the issuance of entry visas to representatives of Member States and members of the Secretariat pursuant to article IV, section 11, of the Headquarters Agreement and, in a timely manner, to enable persons assigned as members of permanent missions or recruited to serve in the Secretariat to take up their assignments as promptly as possible and to enable representatives of Member States to travel to New York on United Nations business, and that the Committee anticipates that the host country will continue to enhance efforts, including visa issuance, to

³ A/AC.154/355, annex.

facilitate the participation of representatives of Member States in other United Nations meetings, as appropriate;

9. *Also notes* that a number of delegations have requested shortening the time frame applied by the host country for issuance of entry visas to representatives of Member States since the time frame poses difficulties for the full-fledged participation of Member States in United Nations meetings, and invites the host country to inform the Committee, as appropriate, of efforts to address such difficulties;

10. *Notes with concern* the difficulties experienced by some permanent missions to the United Nations in obtaining suitable banking services, and welcomes the continued efforts of the host country to facilitate the opening of bank accounts for those permanent missions;

11. *Stresses* the need for the permanent missions and the United Nations to benefit from appropriate banking services, and anticipates that the host country will continue to assist the permanent missions accredited to the United Nations and their staff in obtaining such services;

12. *Expresses its appreciation* for the efforts made by the host country, and expects that the issues raised at the meetings of the Committee will be resolved in a spirit of cooperation and in accordance with international law, including the Headquarters Agreement;

13. *Affirms* the importance of the Committee being in a position to fulfil its mandate and meet on short notice to deal with urgent and important matters concerning the relations between the United Nations and the host country, and in that connection requests the Secretariat and the Committee on Conferences to accord priority to requests from the Committee on Relations with the Host Country for conference-servicing facilities for meetings of that Committee that must be held while the General Assembly and its Main Committees are meeting, without prejudice to the requirements of those bodies and on an "as available" basis;

14. *Requests* the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country and to actively engage in the work of the Committee with a view to ensuring the representation of the interests concerned, in accordance with General Assembly resolution 2819 (XXVI), and recalls that the Secretary-General may bring to the attention of the Committee issues of mutual concern relating to the implementation of the Headquarters Agreement and the Convention on the Privileges and Immunities of the United Nations;²

15. *Requests* the Committee to continue its work in conformity with General Assembly resolution 2819 (XXVI) and, in this framework, to continue to consider additional appropriate measures to enhance the work of the Committee and its effectiveness;

16. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Report of the Committee on Relations with the Host Country".



General Assembly

Distr.: Limited
6 November 2018
Original: English

Seventy-third session

Sixth Committee

Agenda item 86

The rule of law at the national and international levels

Draft resolution

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 72/119 of 7 December 2017,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming also the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Bearing in mind that the activities of the United Nations carried out in support of efforts of Governments to promote and consolidate the rule of law are undertaken in accordance with the Charter, and stressing the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,



Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and its Member States,

Recalling paragraph 134 (e) of the 2005 World Summit Outcome,¹

1. *Recalls* the high-level meeting of the General Assembly on the rule of law at the national and international levels, held during the high-level segment of its sixty-seventh session, and the declaration adopted at that meeting,² takes note of the report of the Secretary-General submitted pursuant to paragraph 41 of the declaration,³ and requests the Sixth Committee to continue its consideration of ways and means of further developing the linkages between the rule of law and the three pillars of the United Nations;

2. *Acknowledges* the efforts to strengthen the rule of law through voluntary pledges, encourages all States to consider making pledges, individually or jointly, based on their national priorities, and also encourages those States that have made pledges to continue to exchange information, knowledge and best practices in this regard;

3. *Takes note* of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities;⁴

4. *Encourages* the Secretary-General and the United Nations system to accord high priority to rule of law activities;

5. *Reaffirms* the role of the General Assembly in encouraging the progressive development of international law and its codification, and further reaffirms that States shall abide by all of their obligations under international law;

6. *Also reaffirms* the imperative of upholding and promoting the rule of law at the international level in accordance with the principles of the Charter of the United Nations;

7. *Further reaffirms* its commitment to working tirelessly for the full implementation of the 2030 Agenda for Sustainable Development,⁵ and recalls that the goals and targets are integrated and indivisible and balance the three dimensions of sustainable development;

8. *Recognizes* the role of multilateral and bilateral treaties and treaty processes in advancing the rule of law, and encourages States to further consider the promotion of treaties in areas where international cooperation could benefit from treaties;

9. *Welcomes* the dialogue initiated by the Rule of Law Coordination and Resource Group and the Rule of Law Unit in the Executive Office of the Secretary-General with Member States on the topic "Promoting the rule of law at the

¹ Resolution 60/1.

² Resolution 67/1.

³ A/68/213/Add.1.

⁴ A/73/253.

⁵ Resolution 70/1.

international level", and calls for the continuation of this dialogue with a view to fostering the rule of law at the international level;

10. *Recognizes* the importance of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to the furtherance of United Nations rule of law programmes and activities, emphasizes that further technical assistance and capacity-building initiatives, focused on increasing and improving the participation of Member States in the multilateral treaty process, should be examined, and invites States to support these activities;

11. *Stresses* the importance of adherence to the rule of law at the national level and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building in order to develop, reinforce and maintain domestic institutions active in the promotion of rule of law at the national and international levels, subject to national ownership, strategies and priorities;

12. *Reiterates its request* to the Secretary-General to ensure greater coordination and coherence among the United Nations entities and with donors and recipients, and reiterates its call for greater evaluation of the effectiveness of such activities, including possible measures to improve the effectiveness of those capacity-building activities;

13. *Calls*, in this context, for dialogue to be enhanced among all stakeholders, with a view to placing national perspectives at the centre of rule of law assistance in order to strengthen national ownership, while recognizing that rule of law activities must be anchored in a national context and that States have different national experiences in the development of their systems of the rule of law, taking into account their legal, political, socioeconomic, cultural, religious and other local specificities, while also recognizing that there are common features founded on international norms and standards;

14. *Calls upon* the Secretary-General and the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, including the participation of women in rule of law-related activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement;

15. *Expresses full support* for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system, within existing mandates, supported by the Rule of Law Unit and under the leadership of the Deputy Secretary-General;

16. *Requests* the Secretary-General to submit, in a timely manner, his next annual report on United Nations rule of law activities, in accordance with paragraph 5 of its resolution 63/128 of 11 December 2008, addressing, in a balanced manner, the national and international dimensions of the rule of law;

17. *Recognizes* the importance of restoring confidence in the rule of law as a key element of transitional justice;

18. *Recalls* the commitment of Member States to take all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid, encourages further dialogue and the sharing of national practices and expertise in strengthening the rule of law through access to justice, including with regard to the provision of birth registration for all, appropriate registration and documentation of refugees, migrants, asylum seekers and stateless persons, and legal aid, where appropriate, in both criminal and civil proceedings, and in this regard recognizes the role of knowledge and technology,

including in judicial systems, and stresses the need to intensify the assistance extended to Governments upon their request;

19. *Stresses* the importance of promoting the sharing of national practices and of inclusive dialogue, welcomes the proposals made by the Secretary-General, inviting Member States to voluntarily exchange national best practices on the rule of law in informal meetings and on an electronic depository of best practices on the United Nations rule of law website, and invites Member States to do so;

20. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;

21. *Invites* the Rule of Law Coordination and Resource Group and the Rule of Law Unit to continue their dialogue with all Member States by interacting with them in a regular, transparent and inclusive manner, in particular in informal briefings;

22. *Stresses* the need for the Rule of Law Unit to carry out its tasks in an effective and sustainable manner and the need to provide it with reasonable means required to that effect;

23. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "The rule of law at the national and international levels", and invites Member States to focus their comments during the upcoming Sixth Committee debate on the subtopic "Sharing best practices and ideas to promote the respect of States for international law".



General Assembly

Distr.: Limited
6 November 2018

Original: English

Seventy-third session

Sixth Committee

Agenda item 84

**Consideration of effective measures to enhance the protection,
security and safety of diplomatic and consular missions
and representatives**

Austria, Canada, Central African Republic, Croatia, Cyprus, Czechia,
Denmark, Estonia, Finland, France, Gabon, Germany, Greece, Iceland,
Ireland, Italy, Japan, Lithuania, Luxembourg, Malta, New Zealand, Norway,
Republic of Moldova, Slovakia, Spain, Sweden and Uruguay: draft resolution

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the report of the Secretary-General,¹

*Conscious of the need to develop and strengthen friendly relations and
cooperation among States,*

*Convinced that respect for the principles and rules of international law
governing diplomatic and consular relations, including those derived from the
principle of sovereign equality of States, is a basic prerequisite for the normal conduct
of relations among States and for the fulfilment of the purposes and principles of the
Charter of the United Nations,*

*Alarmed by the new and recurring acts of violence against diplomatic and
consular representatives, as well as against representatives to international
intergovernmental organizations and officials of such organizations, which endanger
or take innocent lives and seriously impede the normal work of such representatives
and officials,*

Expressing sympathy for the victims of such illegal acts,

*Recalling that, to the extent provided by the relevant rules of international law,
premises of diplomatic missions, consular premises and premises of permanent
missions with diplomatic status to international intergovernmental organizations, as
well as private residences of relevant members of diplomatic missions and*

¹ A/73/189.



representatives to international intergovernmental organizations, shall be inviolable and that, to the extent consistent with the relevant rules of international law, agents of the receiving State shall not enter them, except with the consent of the sending State,

Noting that diplomatic and consular missions may maintain archives and documents in various forms, that official correspondence may take a variety of forms and that diplomatic and consular missions may use a variety of means of communication,

Recalling that the archives and documents of diplomatic and consular missions shall be inviolable at any time and wherever they may be and that the official correspondence of diplomatic and consular missions shall be inviolable,

Recalling also that States shall permit and protect free communication of diplomatic and consular missions for all official purposes and that diplomatic and consular missions may employ all appropriate means in communicating with their Governments and other diplomatic and consular missions of their State, wherever situated,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives and, as appropriate, their family members, as well as of permanent missions and, as appropriate, relevant representatives to international intergovernmental organizations and their family members,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the functions of diplomatic and consular missions,

Emphasizing the duty of States to take all appropriate measures, as required by international law, in a timely manner, for the protection of diplomatic and consular missions and representatives as well as missions and representatives to international intergovernmental organizations and officials of such organizations, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established pursuant to General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. *Welcomes* the report of the Secretary-General;¹
2. *Strongly condemns* all acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;
3. *Urges* States to strictly observe, implement and enforce, including during a period of armed conflict, all the applicable principles and rules of international law governing diplomatic and consular relations, including those relating to inviolability, and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prevent and prohibit in their territories

illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. *Also urges* States to take all appropriate measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, including during a period of armed conflict, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

5. *Recommends* that States cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives, including measures of a preventive nature, and with regard to the timely exchange of information on the circumstances of all serious violations thereof;

6. *Urges* States to strictly comply with the applicable rules of international law governing the protection and inviolability of premises of diplomatic missions, consular premises and premises of permanent missions with diplomatic status to international intergovernmental organizations;

7. *Also urges* States to take all appropriate measures, in accordance with international law, at the national and international levels, to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

8. *Recommends* that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its juridical authorities in order to bring offenders to justice;

9. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

10. *Calls upon* States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions, their archives and premises or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means available for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

11. *Urges*:

(a) All States to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General,² serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

(b) The State in which the violation took place — and, to the extent possible, the State where the alleged offender is present — to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General, on measures taken to bring the offender to justice and to communicate, in accordance with its laws, the final outcome of the proceedings

² A/42/485, annex.

against the offender, and to report on measures adopted with a view to preventing a repetition of such violations;

12. *Requests* the Secretary-General:

(a) To send, without delay, a circular note to all States reminding them of the request contained in paragraph 11 above;

(b) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 11 above, unless the reporting State requests otherwise;

(c) To draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 11 above, when a serious violation has been reported pursuant to paragraph 11 (a) above;

(d) To address reminders to States where such violations have occurred if reports pursuant to paragraph 11 (a) above or follow-up reports pursuant to paragraph 11 (b) above have not been made within a reasonable period of time;

13. *Also requests* the Secretary-General to invite States, in the circular note referred to in paragraph 12 (a) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

14. *Further requests* the Secretary-General to submit to the General Assembly at its seventy-fifth session a report containing:

(a) Information on the state of ratification of and accessions to the instruments referred to in paragraph 9 above;

(b) A summary of the reports received and views expressed pursuant to paragraphs 11 and 13 above;

15. *Invites* the Secretary-General to include in his report to the General Assembly any views he may wish to express on the matters referred to in paragraph 14 above;

16. *Decides* to include in the provisional agenda of its seventy-fifth session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".

**General Assembly**

Distr.: Limited
6 November 2018

Original: English

Seventy-third session**Sixth Committee**

Agenda item 83

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Argentina, Austria, Belarus, Belgium, Canada, Central African Republic, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Mauritius, Monaco, Norway, Peru, Poland, Portugal, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Serbia, Slovakia, Spain, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its biennial resolutions on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, including its resolution 71/144 of 13 December 2016,

Having considered the report of the Secretary-General,¹

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions of 1949² and the Additional Protocols,³

* Reissued for technical reasons on 9 November 2018.

¹ A/73/277.

² United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

³ *Ibid.*, vol. 1125, Nos. 17512 and 17513, and vol. 2404, No. 43425.



Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross, together with relevant partners such as national Red Cross and Red Crescent societies, to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I⁴ to the Geneva Conventions,

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Taking note of the fact that the International Humanitarian Fact-Finding Commission conducted its first operational mission in 2017,

Taking note also of the fact that, in paragraphs 8 and 9 of its resolution 1894 (2009) of 11 November 2009 on the protection of civilians in armed conflict, the Security Council noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, underlined the importance in that regard of receiving information that is timely, objective, accurate and reliable, and considered the possibility, to that end, of using the International Humanitarian Fact-Finding Commission established by article 90 of Protocol I,

Noting with appreciation the role of the International Committee of the Red Cross in facilitating and offering protection to the victims of armed conflicts,

Noting with appreciation also the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Noting the special responsibilities of national Red Cross and Red Crescent societies, as auxiliaries to the public authorities of their respective States in the humanitarian field, to cooperate with and assist their Governments in the promotion, dissemination and implementation of international humanitarian law,

Welcoming the universal acceptance of the Geneva Conventions of 1949,

Emphasizing the fundamentally non-discriminatory character of international humanitarian law, including as reflected in the preamble to the 1977 Additional Protocol I to the 1949 Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts, which, inter alia, reaffirms that the provisions of the Geneva Conventions of 12 August 1949 and of Additional Protocol I must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the origin of the armed conflict or on the causes espoused by or attributed to the parties to the conflict,

Recalling the imperative need to improve compliance with international humanitarian law, recognized by all States at the thirty-second International

⁴ Ibid., vol. 1125, No. 17512.

Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015,

Welcoming the continued engagement of States in the intergovernmental process, and recalling its State-driven and consensus-based character, aimed at finding ways to enhance the implementation of international humanitarian law,

Noting the close cooperation between the International Committee of the Red Cross and States to further strengthen international humanitarian law protecting persons deprived of their liberty in relation to armed conflict,

Welcoming efforts by States to implement their obligations under international humanitarian law, as well as programmes and other measures of States and their armed forces that promote or ensure compliance with international humanitarian law,

Noting the work undertaken by States and by the International Committee of the Red Cross in relation to sexual and gender-based violence in armed conflict,

Noting also the work undertaken by States, the International Red Cross and Red Crescent Movement and other actors in the "Health Care in Danger" project to improve the protection of the provision of and access to health care,

Noting with appreciation Security Council resolution 2286 (2016), and in this regard calling upon all parties to armed conflict to respect and protect the wounded and sick, as well as health-care personnel, humanitarian personnel exclusively engaged in medical duties and their means of transport and equipment, as well as hospitals and other medical facilities, in armed conflict, in accordance with their obligations under international humanitarian law,

Noting the serious concern expressed by States regarding the humanitarian impact caused by cluster munitions, and noting the entry into force of the Convention on Cluster Munitions⁵ on 1 August 2010,

Noting also the entry into force of the Arms Trade Treaty⁶ on 24 December 2014,

Welcoming the important contribution to the protection of victims of armed conflicts made by the significant debate generated by the publication in 2005 of the study by the International Committee of the Red Cross on customary international humanitarian law, as well as other recent initiatives by the Committee, welcoming also its efforts to update regularly its customary international humanitarian law database, and looking forward to further constructive discussion on the subject,

Acknowledging the fact that the Rome Statute of the International Criminal Court⁷ covers the most serious crimes of international concern under international humanitarian law and that the Rome Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting the amendments to article 8 of the Rome Statute of the International Criminal Court, relating to war crimes under the Rome Statute, adopted on 10 June 2010 at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010,

⁵ Ibid., vol. 2688, No. 47713.

⁶ See resolution 67/234 B.

⁷ United Nations, *Treaty Series*, vol. 2187, No. 38544.

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949,² and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;⁸

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols³ at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,⁴ or those States not parties, upon becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto,⁹ in the context of the upcoming twentieth anniversary of the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;¹⁰

6. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective, and supports its further strengthening and development;

8. *Notes with appreciation* the 10 resolutions adopted at the thirty-second International Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015, in particular resolutions 1 to 4, recalls their importance, as well as the recommendations for further actions therein, in strengthening international humanitarian law, and notes with appreciation in this regard resolution 2, entitled "Strengthening compliance with international humanitarian law", in which the Conference, inter alia, recommended the continuation of an inclusive, State-driven intergovernmental process based on the principle of consensus and in line with the guiding principles of the consultation process to find agreement on features and functions of a potential forum of States and to find ways to enhance the implementation of international humanitarian law using the potential of the International Conference and international humanitarian law regional forums;

9. *Calls upon* Member States to actively participate in the thirty-third International Conference of the Red Cross and Red Crescent, to be held in Geneva in 2019;

10. *Welcomes* the activities of the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross in supporting

⁸ Ibid., vol. 1125, Nos. 17512 and 17513.

⁹ Ibid., vol. 249, No. 3511, and vol. 2253, No. 3511.

¹⁰ Ibid., vol. 2173, No. 27531.

efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments, and reminds Member States of the availability of the manual on domestic implementation of international humanitarian law;

11. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and their work in promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law, and encourages Member States that have not yet done so to consider establishing national commissions or committees with the support of national Red Cross and Red Crescent societies where relevant, to advise and assist Governments in implementing and disseminating knowledge of international humanitarian law;

12. *Commends* the International Committee of the Red Cross for organizing the universal meeting of national committees and similar bodies on international humanitarian law, held in Geneva from 30 November to 2 December 2016, and invites the International Committee of the Red Cross to continue to organize this meeting;

13. *Requests* the Secretary-General to submit to the General Assembly at its seventy-fifth session a comprehensive report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

14. *Encourages* Member States and the International Committee of the Red Cross, in transmitting information to the Secretary-General, to focus on new developments and activities during the reporting period;

15. *Encourages* Member States to explore ways of facilitating the submission of information for future reports of the Secretary-General and, in this context, to consider the convenience of using a questionnaire as drafted by Member States, with the assistance of the International Committee of the Red Cross and, as appropriate, in consultation with the Secretariat, for submission to the General Assembly at its seventy-fifth session;

16. *Decides* to include in the provisional agenda of its seventy-fifth session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".



General Assembly

Distr.: Limited
7 November 2018
Original: English

Seventy-third session**Sixth Committee**

Agenda item 82

**Report of the International Law Commission on the work
of its seventieth session****Draft resolution****Report of the International Law Commission on the work of its
seventieth session**

The General Assembly,

Having considered the report of the International Law Commission on the work of its seventieth session,¹

Emphasizing the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,²

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recalling also the role of Member States in submitting proposals for new topics for the consideration of the International Law Commission, and noting in this regard the recommendation of the Commission that such proposals be accompanied by a statement of reasons,

¹ Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10).

² Resolution 2625 (XXV), annex.



Reaffirming the importance for the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

Recognizing the importance of the work of the special rapporteurs of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations trust fund for the International Law Seminar,

Acknowledging the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in General Assembly resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the Assembly,

Welcoming also the seventieth anniversary commemorative meetings held in New York and Geneva, which took place under the overarching theme of "70 years of the International Law Commission – Drawing a balance for the future", as well as the discussions which took place, *inter alia*, on the working methods of the Commission,

1. *Takes note* of the report of the International Law Commission on the work of its seventieth session;¹

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its seventieth session, and notes in particular:

(a) The completion of the second reading of the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties;²

(b) The completion of the second reading of the draft conclusions on identification of customary international law;³

(c) The completion of the first reading of the draft guidelines on the protection of the atmosphere;⁴

(d) The completion of the first reading of the draft Guide to Provisional Application of Treaties;⁵

3. *Recommends* that the International Law Commission continue its work on the topics in its current programme of work, taking into account the comments and

¹ See *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10* (A/73/10), chap. IV, sect. E.

² *Ibid.*, chap. V, sect. E.

³ *Ibid.*, chap. VI, sect. C.

⁴ *Ibid.*, chap. VII, sect. C.

observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;

4. *Draws the attention* of Governments to the importance for the International Law Commission of having their views by 31 December 2018 on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report, regarding:

- (a) Peremptory norms of general international law (*jus cogens*);
- (b) Immunity of State officials from foreign criminal jurisdiction;
- (c) Protection of the environment in relation to armed conflicts;
- (d) Succession of States in respect of State responsibility;

5. *Also draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations on the draft articles on crimes against humanity, adopted on first reading by the Commission at its sixty-ninth session;⁷

6. *Further draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 15 December 2019 on the draft guidelines on the protection of the atmosphere and on the draft Guide to Provisional Application of Treaties, adopted on first reading by the Commission at its seventieth session;⁸

7. *Takes note* of the decision of the International Law Commission to include the topic "General principles of law" in its programme of work,⁹ and encourages the Commission to continue the examination of the topics that are in its long-term programme of work;¹⁰

8. *Encourages* the International Law Commission to take into account the capacity and views of Member States when including topics in its current programme of work;

9. *Takes note* of paragraphs 368 to 370 of the report of the International Law Commission and notes, in particular, the inclusion of the topics "Universal criminal jurisdiction", and "Sea-level rise in relation to international law" in the long-term programme of work of the Commission,¹¹ and in this regard calls upon the Commission to take into consideration the comments, concerns and observations expressed by Governments during the debate in the Sixth Committee;

10. *Also takes note* of the holding of the first part of the seventieth session of the International Law Commission at United Nations Headquarters, in New York, from 30 April to 1 June 2018, which coincided with the commemoration of the seventieth anniversary of the Commission, and of the second part of the session at the United Nations Office at Geneva, from 2 July to 10 August 2018;

⁷ Ibid., *Seventy-second Session, Supplement No. 10 (A/72/10)*, para. 43.

⁸ Ibid., *Seventy-third Session, Supplement No. 10 (A/73/10)*, paras. 76 and 88.

⁹ Ibid., para. 363.

¹⁰ The following topics are currently in the long-term programme of work of the International Law Commission: "Ownership and protection of wrecks beyond the limits of national maritime jurisdiction", "Jurisdictional immunity of international organizations", "Protection of personal data in transborder flow of information", "Extraterritorial jurisdiction", "The fair and equitable treatment standard in international investment law", "Settlement of international disputes to which international organizations are parties", "Evidence before international courts and tribunals", "Universal criminal jurisdiction" and "Sea-level rise in relation to international law".

¹¹ *Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10)*, para. 369.

11. *Further takes note* of paragraphs 331 to 362 of the report of the International Law Commission and commends the convening of the seventieth anniversary commemorative meetings in New York on 21 May 2018 and in Geneva on 5 and 6 July 2018, and also expresses its appreciation to the Member States, the academic institution and others, which have made financial contributions and contributions in kind to facilitate the commemoration of the seventieth anniversary of the Commission;

12. *Takes note* of paragraph 382 of the report of the International Law Commission, and requests the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution 56/272 of 27 March 2002;

13. *Welcomes* the efforts of the International Law Commission to improve its methods of work,¹² and encourages the Commission to continue this practice;

14. *Invites* the International Law Commission to continue to take measures to enhance its efficiency and productivity and to consider making proposals to Member States to that end;

15. *Recalls* the importance of an in-depth analysis of State practice and the consideration of the diversity of legal systems of Member States to the work of the International Law Commission;

16. *Encourages* the International Law Commission to continue to take cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

17. *Recalls* that the seat of the International Law Commission is at the United Nations Office at Geneva;

18. *Takes note* of paragraph 395 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 29 April to 7 June and from 8 July to 9 August 2019;

19. *Stresses* the desirability of further enhancing the dialogue between the International Law Commission, in particular the special rapporteurs, and the Sixth Committee, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission throughout the year;

20. *Encourages* delegations, during the debate on the report of the International Law Commission, to continue to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

21. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

22. *Underlines* in this regard the necessity to allow sufficient time for the consideration of the report of the International Law Commission in the Sixth Committee;

23. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written

¹² *Ibid.*, Sixty-sixth Session, Supplement No. 10 (A/66/10), paras. 370–388.

form, would be of particular interest in providing effective guidance for the Commission in its further work;

24. *Takes note* of paragraphs 396 to 399 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of articles 16 (e), 25 and 26 of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

25. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

26. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission, and takes note of the requests of the Commission to the Secretariat to reissue the memorandum on ways and means for making the evidence of customary international law more readily available¹³ to reflect the text of the draft conclusions and commentaries on identification of customary international law adopted on second reading, and to prepare a memorandum providing information on treaties which may be of relevance to its future work on the topic "Succession of States in respect of State responsibility", contained in paragraphs 364 and 365 of the report of the Commission;

27. *Also reaffirms* its previous decisions concerning the documentation and summary records of the International Law Commission;¹⁴

28. *Takes note* of paragraph 386 of the report of the International Law Commission, recalls the paramount importance of multilingualism as set forth in General Assembly resolutions 69/324 of 11 September 2015 and 71/328 of 11 September 2017 on multilingualism, underlines the importance of having the documents of the Commission published in due time in the six official languages of the United Nations, and to this end requests special rapporteurs to submit their reports within the time limits specified by the Secretariat;

29. *Stresses* the need to expedite the preparation of the summary records of the International Law Commission, and welcomes the continuation of the measures taken to streamline the processing of summary records during the sixty-fifth session of the Commission,¹⁵ which have led to a more rational use of resources, and expresses its satisfaction that the summary records of the Commission, constituting *travaux préparatoires* in the progressive development and codification of international law, will not be subject to arbitrary length restrictions;

30. *Welcomes* the institutionalization of the practice of the Secretariat to include on the website of the International Law Commission the provisional summary records in English and French relating to the work of the Commission;

¹³ A/CN.4/710.

¹⁴ See resolutions 32/151, para. 10, and 37/111, para. 9, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly. See also *Yearbook of the International Law Commission 1982*, vol. II (Part Two), paras. 267-269 and 271, as well as all subsequent annual reports of the International Law Commission.

¹⁵ *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10 (A/68/10)*, para. 183.

31. Also welcomes the efforts of the Secretariat in seeking to ensure the timely and efficient processing of the documents of the International Law Commission and the institutionalization of the experimental measures taken during the sixty-eighth session of the Commission to streamline the editing of those documents;

32. Takes note of paragraph 385 of the report of the International Law Commission, underlines the importance of the publications of the Codification Division to the work of the Commission, welcomes in particular the issuance of the ninth edition of *The Work of the International Law Commission* in French, and reiterates its request that the Secretary-General continue to publish *The Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years;

33. Also takes note of paragraph 390 of the report of the International Law Commission, stresses the unique value of the *Yearbook of the International Law Commission*, and requests the Secretary-General to ensure its timely publication in all official languages;

34. Expresses its appreciation to Governments that have made voluntary contributions to the trust fund on the backlog relating to the *Yearbook of the International Law Commission*, and encourages further contributions to the trust fund;

35. Takes note of paragraph 391 of the report of the International Law Commission, expresses its satisfaction with the remarkable progress achieved in the past few years in reducing the backlog of the *Yearbook of the International Law Commission* in all six languages, welcomes the efforts made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog, encourages that Division to provide continuous necessary support to the Editing Section in advancing the *Yearbook of the International Law Commission*, and requests that updates on progress made in this respect be provided to the Commission on a regular basis;

36. Welcomes the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;

37. Expresses the hope that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants representing the principal legal systems of the world, including in particular those from developing countries, will be given the opportunity to attend the Seminar, as well as delegates to the Sixth Committee, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations trust fund for the International Law Seminar;

38. Requests the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue to consider ways to improve the structure and content of the Seminar;

39. Underlines the importance of the records and topical summary of the debate in the Sixth Committee for the deliberations of the International Law Commission, and in this regard requests the Secretary-General to forward to the Commission, for its attention, the records of the debate on the report of the Commission at the seventy-third session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

40. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

41. *Also requests* the Secretariat to make the complete report of the International Law Commission available as soon as possible after the conclusion of the session of the Commission for the consideration of Member States with due anticipation and no later than the prescribed time limit for reports in the General Assembly;

42. *Encourages* the International Law Commission to continue to consider ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

43. *Recommends* that the debate on the report of the International Law Commission at the seventy-fourth session of the General Assembly commence on 28 October 2019.



General Assembly

Distr.: Limited
7 November 2018

Original: English

Seventy-third session

Sixth Committee

Agenda item 82

Report of the International Law Commission
on the work of its seventieth session

Draft resolution

Subsequent agreements and subsequent practice in relation to the interpretation of treaties

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its seventieth session,¹ which contains the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties,

Taking note of the recommendation of the International Law Commission contained in paragraph 49 of its report,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the subject of subsequent agreements and subsequent practice in relation to the interpretation of treaties is of major importance in international relations,

1. *Welcomes* the conclusion of the work of the International Law Commission on subsequent agreements and subsequent practice in relation to the interpretation of treaties, and its adoption of the draft conclusions and commentaries thereto;²

2. *Expresses its appreciation* to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

¹ Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10).

² Official Records of the General Assembly, Seventy-third Session, Supplement No. 10 (A/73/10), para. 52.



3. *Takes note* of the statements in the Sixth Committee on the subject, including those made at the seventy-third session of the General Assembly,³ after the International Law Commission had completed its consideration of this topic in accordance with its statute;

4. *Also takes note* of the conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties, the text of which is annexed to the present resolution, with the commentaries thereto, brings them to the attention of States and all who may be called upon to interpret treaties, and encourages their widest possible dissemination.

Annex

Subsequent agreements and subsequent practice in relation to the interpretation of treaties

Part One

Introduction

Conclusion 1

Scope

The present conclusions concern the role of subsequent agreements and subsequent practice in the interpretation of treaties.

Part Two

Basic rules and definitions

Conclusion 2

General rule and means of treaty interpretation

1. Articles 31 and 32 of the Vienna Convention on the Law of Treaties set forth, respectively, the general rule of interpretation and the recourse to supplementary means of interpretation. These rules also apply as customary international law.

2. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its object and purpose, as provided in article 31, paragraph 1.

3. Article 31, paragraph 3, provides, *inter alia*, that there shall be taken into account, together with the context, (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions; and (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation.

4. Recourse may be had to other subsequent practice in the application of the treaty as a supplementary means of interpretation under article 32.

5. The interpretation of a treaty consists of a single combined operation, which places appropriate emphasis on the various means of interpretation indicated, respectively, in articles 31 and 32.

³ See A/C.6/73/SR.20, A/C.6/73/SR.21, A/C.6/73/SR.22, A/C.6/73/SR.23, A/C.6/73/SR.24, A/C.6/73/SR.29 and A/C.6/73/SR.30; see also the statements in the Sixth Committee that are available on the United Nations PaperSmart portal.

Conclusion 3**Subsequent agreements and subsequent practice as authentic means of interpretation**

Subsequent agreements and subsequent practice under article 31, paragraph 3 (a) and (b), being objective evidence of the understanding of the parties as to the meaning of the treaty, are authentic means of interpretation, in the application of the general rule of treaty interpretation reflected in article 31.

Conclusion 4**Definition of subsequent agreement and subsequent practice**

1. A subsequent agreement as an authentic means of interpretation under article 31, paragraph 3 (a), is an agreement between the parties, reached after the conclusion of a treaty, regarding the interpretation of the treaty or the application of its provisions.
2. A subsequent practice as an authentic means of interpretation under article 31, paragraph 3 (b), consists of conduct in the application of a treaty, after its conclusion, which establishes the agreement of the parties regarding the interpretation of the treaty.
3. A subsequent practice as a supplementary means of interpretation under article 32 consists of conduct by one or more parties in the application of the treaty, after its conclusion.

Conclusion 5**Conduct as subsequent practice**

1. Subsequent practice under articles 31 and 32 may consist of any conduct of a party in the application of a treaty, whether in the exercise of its executive, legislative, judicial or other functions.
2. Other conduct, including by non-State actors, does not constitute subsequent practice under articles 31 and 32. Such conduct may, however, be relevant when assessing the subsequent practice of parties to a treaty.

Part Three**General aspects****Conclusion 6****Identification of subsequent agreements and subsequent practice**

1. The identification of subsequent agreements and subsequent practice under article 31, paragraph 3, requires, in particular, a determination whether the parties, by an agreement or a practice, have taken a position regarding the interpretation of the treaty. Such a position is not taken if the parties have merely agreed not to apply the treaty temporarily or agreed to establish a practical arrangement (*modus vivendi*).
2. Subsequent agreements and subsequent practice under article 31, paragraph 3, may take a variety of forms.
3. The identification of subsequent practice under article 32 requires, in particular, a determination whether conduct by one or more parties is in the application of the treaty.

Conclusion 7**Possible effects of subsequent agreements and subsequent practice in interpretation**

1. Subsequent agreements and subsequent practice under article 31, paragraph 3, contribute, in their interaction with other means of interpretation, to the clarification

of the meaning of a treaty. This may result in narrowing, widening, or otherwise determining the range of possible interpretations, including any scope for the exercise of discretion which the treaty accords to the parties.

2. Subsequent practice under article 32 may also contribute to the clarification of the meaning of a treaty.

3. It is presumed that the parties to a treaty, by an agreement or a practice in the application of the treaty, intend to interpret the treaty, not to amend or to modify it. The possibility of amending or modifying a treaty by subsequent practice of the parties has not been generally recognized. The present conclusion is without prejudice to the rules on the amendment or modification of treaties under the Vienna Convention on the Law of Treaties and under customary international law.

Conclusion 8

Interpretation of treaty terms as capable of evolving over time

Subsequent agreements and subsequent practice under articles 31 and 32 may assist in determining whether or not the presumed intention of the parties upon the conclusion of the treaty was to give a term used a meaning which is capable of evolving over time.

Conclusion 9

Weight of subsequent agreements and subsequent practice as a means of interpretation

1. The weight of a subsequent agreement or subsequent practice as a means of interpretation under article 31, paragraph 3, depends, inter alia, on its clarity and specificity.

2. In addition, the weight of subsequent practice under article 31, paragraph 3 (b), depends, inter alia, on whether and how it is repeated.

3. The weight of subsequent practice as a supplementary means of interpretation under article 32 may depend on the criteria referred to in paragraphs 1 and 2.

Conclusion 10

Agreement of the parties regarding the interpretation of a treaty

1. An agreement under article 31, paragraph 3 (a) and (b), requires a common understanding regarding the interpretation of a treaty which the parties are aware of and accept. Such an agreement may, but need not, be legally binding for it to be taken into account.

2. The number of parties that must actively engage in subsequent practice in order to establish an agreement under article 31, paragraph 3 (b), may vary. Silence on the part of one or more parties may constitute acceptance of the subsequent practice when the circumstances call for some reaction.

Part Four

Specific aspects

Conclusion 11

Decisions adopted within the framework of a Conference of States Parties

1. A Conference of States Parties, under these conclusions, is a meeting of parties to a treaty for the purpose of reviewing or implementing the treaty, except where they act as members of an organ of an international organization.

2. The legal effect of a decision adopted within the framework of a Conference of States Parties depends primarily on the treaty and any applicable rules of procedure. Depending on the circumstances, such a decision may embody, explicitly or implicitly, a subsequent agreement under article 31, paragraph 3 (a), or give rise to subsequent practice under article 31, paragraph 3 (b), or to subsequent practice under article 32. Decisions adopted within the framework of a Conference of States Parties often provide a non-exclusive range of practical options for implementing the treaty.

3. A decision adopted within the framework of a Conference of States Parties embodies a subsequent agreement or subsequent practice under article 31, paragraph 3, in so far as it expresses agreement in substance between the parties regarding the interpretation of a treaty, regardless of the form and the procedure by which the decision was adopted, including adoption by consensus.

Conclusion 12

Constituent instruments of international organizations

1. Articles 31 and 32 apply to a treaty which is the constituent instrument of an international organization. Accordingly, subsequent agreements and subsequent practice under article 31, paragraph 3, are, and subsequent practice under article 32 may be, means of interpretation for such treaties.

2. Subsequent agreements and subsequent practice of the parties under article 31, paragraph 3, or subsequent practice under article 32, may arise from, or be expressed in, the practice of an international organization in the application of its constituent instrument.

3. Practice of an international organization in the application of its constituent instrument may contribute to the interpretation of that instrument when applying articles 31 and 32.

4. Paragraphs 1 to 3 apply to the interpretation of any treaty which is the constituent instrument of an international organization without prejudice to any relevant rules of the organization.

Conclusion 13

Pronouncements of expert treaty bodies

1. For the purposes of these conclusions, an expert treaty body is a body consisting of experts serving in their personal capacity, which is established under a treaty and is not an organ of an international organization.

2. The relevance of a pronouncement of an expert treaty body for the interpretation of a treaty is subject to the applicable rules of the treaty.

3. A pronouncement of an expert treaty body may give rise to, or refer to, a subsequent agreement or subsequent practice by parties under article 31, paragraph 3, or subsequent practice under article 32. Silence by a party shall not be presumed to constitute subsequent practice under article 31, paragraph 3 (b), accepting an interpretation of a treaty as expressed in a pronouncement of an expert treaty body.

4. This conclusion is without prejudice to the contribution that pronouncements of expert treaty bodies make to the interpretation of the treaties under their mandates.